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July 15, 2019

Mr. Patrick Wruck
Commission Secretary and Manager
Regulatory Support
British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Mr. Wruck:

RE: Project No. 1598998
British Columbia Utilities Commission (BCUC or Commission)
Indigenous Utilities Regulation Inquiry
British Columbia Hydro and Power Authority (BC Hydro)
Written Evidence

BC Hydro writes to submit its written evidence in the above noted proceeding.

For further information, please contact the undersigned.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Fred James".

Fred James
Chief Regulatory Officer

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Enclosure

BCUC Indigenous Utilities Regulation Inquiry

**Evidence of
British Columbia Hydro and Power Authority**

July 15, 2019

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1 **1 Introduction**

2 BC Hydro is writing to the British Columbia Utilities Commission (**Commission or**
3 **BCUC**) to provide its submissions into the Commission's Inquiry into Indigenous
4 Utilities Regulation (**Inquiry**).

5 We are a Crown corporation owned by the Province of British Columbia and the
6 largest electricity provider in British Columbia serving over four million British
7 Columbians. BC Hydro's assets support the Province's energy objectives under the
8 *Clean Energy Act (CEA)*, and we are regulated by the Commission under the
9 *Utilities Commission Act (UCA)*.

10 We express support for the establishment of the Inquiry, the scope of which is set
11 out in Commission Order No. G-62-19. We thank the Commission for the opportunity
12 to comment. We look forward to developing a greater understanding of participant
13 views regarding the characteristics and regulation of indigenous utilities and
14 participating further through our final submissions and response to the Commission's
15 draft Inquiry report to the Government.¹ In our final submissions and our response to
16 the Commission's draft inquiry report to the Government, BC Hydro may also
17 provide additional comments on letters of comment submitted to the Commission
18 after the July 15 evidentiary deadline.²

19 **2 Overview**

20 **2.1 Inquiry Terms of Reference**

21 BC Hydro submits its comments on the following terms as set out in Commission
22 Order No. G-62-19, filed as Exhibit A-1 in this proceeding:

¹ Refer to Attachment A of Commission Order No. G-110-19, marked as Exhibit A-7 in this proceeding.

² On July 2, 2017, the Commission issued a letter marked as Exhibit A-11 in this proceeding advising that the Commission will accept letters of comment for this proceeding up to September 10, 2019. In that letter, the Commission clarified that letters of comment differ from evidence in that they cannot be tested and clarification cannot be sought through the Information Request process.

- 1 (a) The BCUC must advise on the appropriate nature and scope, if any, of the
- 2 regulation of indigenous utilities
- 3 (b) without limiting paragraph (a), the BCUC must provide response to the following
- 4 questions:
 - 5 (i) Should indigenous utilities be regulated under the UCA or under another
 - 6 mechanism, or be unregulated?
 - 7 (ii) If it is appropriate to regulate indigenous utilities under the UCA, is there
 - 8 any matter under the Act in respect of which indigenous utilities should
 - 9 be regulated differently from other public utilities, and, if so, how should
 - 10 that matter be regulated?

11 BC Hydro's evidentiary submission can be summarized as follows. If an indigenous
12 utility meets the current definition of a Public Utility as set out in Section 1 of the
13 *UCA*, it is currently subject to utility regulation under the *UCA* as administered by the
14 Commission³. We believe that regulatory oversight is appropriate for Public Utilities,
15 including indigenous utilities, where they are monopolies (sole service providers in
16 an area), and/or where public interest concerns may be present. Regarding
17 regulatory oversight for Public Utilities, we believe that the *UCA*, as administered by
18 the Commission is effective and efficient at balancing the interests of customers,
19 Public Utilities and other stakeholders and protecting the public interest.

20 In our view, public interest concerns include such things as: 1) the consideration of
21 higher costs for the remaining customers of an existing Public Utility caused by the
22 stranding of assets and/or the erosion of customer base where a new Public Utility is
23 seeking to build infrastructure or otherwise provide services where another utility
24 already operates, 2) maintaining reliability standards where a new Public Utility
25 interconnects to the BC Hydro system, and 3) providing for rates, terms and
26 conditions that reflect the nature of the service purchased by Public Utilities. The

³ Appendix A of this submission contains the definition of a Public Utility from Section 1 of the *UCA*.

1 public interest also includes the Province's energy objectives under the *CEA*,
2 including the objectives that BC Hydro's ratepayers receive the benefits of the
3 heritage assets and that BC Hydro's rates remain amongst the most competitive in
4 North America.⁴ At the same time, the *UCA* also contains language that allows for
5 reduced regulation for certain Public Utilities should it be determined that public
6 interest concerns are sufficiently addressed.

7 For these reasons which are discussed in greater detail below, we believe that there
8 are a number of advantages in maintaining the *UCA* as the principal regulatory
9 framework for all Public Utilities and in maintaining the Commission as the principal
10 regulator overseeing all Public Utilities in the Province, regardless of whether they
11 are owned and/or operated by an Indigenous Nation. However, regarding the
12 regulatory process for smaller Public Utilities, the Commission should consider how
13 they can reduce the overall burden of regulation, which is funded by ratepayers
14 through utility rates. The use of standardized reporting templates and streamlined
15 application processes are a couple of examples which might allow for the
16 safeguarding of the public interest but reduce the overall cost of regulation.

17 BC Hydro provides no comments at this time on terms of reference item (b)(i) which
18 asks the Commission: "What are the defining characteristics of indigenous utilities,
19 having regard to: A) the nature of the ownership and operation of indigenous utilities,
20 B) the types of services provided by indigenous utilities, C) the persons to whom
21 services are provided by indigenous utilities, and D) the geographic areas served by
22 indigenous utilities." BC Hydro is also not commenting at this time on the terms of
23 reference scope items (b)(iv) and b)(v), which seeks information on the regulation of
24 indigenous utilities in some other manner than through the *UCA*. We anticipate that
25 some Indigenous participants will present their views on these scope items and we
26 look forward to reviewing the evidence put before the Commission. We may submit
27 information requests and may address certain evidence in our final submission.

⁴ Refer to *CEA*, Section 2e and 2f.

1 3 BC Hydro's Mandate and Obligations

2 BC Hydro provides regulated electricity service to its customers through the
3 ownership and operation of electricity infrastructure assets across British Columbia.
4 Largely constructed in the 1960's, 1970's and 1980's, our assets consist of thirty
5 hydroelectric and two natural gas fired generating stations, around 86,000 kilometres
6 of transmission and distribution lines and about 300 substations, which we
7 collectively refer to as the Integrated System. The Integrated System is operated
8 efficiently on a large scale. It is safe, highly reliable and is cost-effective to operate.
9 As a result of the quality and long-life of these assets and how BC Hydro operates
10 as a utility, BC Hydro customers currently pay among the lowest electricity prices in
11 North America.⁵ In addition to customers on the Integrated System, BC Hydro also
12 provides safe, reliable electricity to a number of small communities located in parts
13 of British Columbia not connected to BC Hydro's integrated transmission grid. These
14 customers are located in what we refer to as the non-integrated areas.

15 In the *CEA*, Government has identified BC Hydro's generation and storage,
16 transmission and distribution assets to be "heritage assets" and articulated the
17 Province's energy objectives to include ensuring that BC Hydro's ratepayers
18 (customers) receive the benefits of the heritage assets, and ensuring that
19 BC Hydro's rates remain among the most competitive of rates charged by public
20 utilities in North America.⁶

21 The benefits of low-cost, high reliability power delivered through the Integrated
22 System are passed on to our customers through low electricity rates, which are
23 applied to each class of customers on a "Postage Stamp" basis, which means that
24 the same rates are available to each class of customers regardless of their location if
25 they are connected to the Integrated System and meet the requirements of that rate.

⁵ Comparison of Major Electricity Prices in North American Cities – Rates in Effect April 1, 2018:
<http://www.hydroquebec.com/data/documents-donnees/pdf/comparison-electricity-prices.pdf>.

⁶ See Sections 1 (definition of "heritage assets"), 2(e) and (f) of the *CEA*.

1 Under postage stamp rates, all customers benefit from access to electricity service
2 at the average cost. This policy streamlines regulatory requirements and avoids
3 regional rate impacts, which would largely be borne by customers located in more
4 isolated, lower population density locations where the cost of providing service is
5 higher.⁷

6 **4 What is a Public Utility and why is regulation
7 necessary?**

8 A provider of utility services in British Columbia is defined as a Public Utility if it
9 meets the definition in Section 1 of the *UCA*.⁸ The definition of what is a Public Utility
10 is quite broad and includes anyone who owns or operates equipment to: a) produce,
11 generate, store, transmit or provide electricity, natural gas, steam or another agent
12 to produce light, heat, cold or power for the public or a corporation for compensation,
13 or b) convey or transmit information, messages or communications by guided or
14 unguided electromagnetic waves, including systems of cable, microwave, optical
15 fibre or radiocommunications if that service is offered to the public for compensation.
16 Certain service providers are defined as being excluded from the definition of a
17 Public Utility.⁹

18 Public Utilities generally provide an essential service which, by its nature, is a
19 monopoly or has monopolistic characteristics. A monopoly is defined as the
20 exclusive possession or control of the supply of or trade in a commodity or service.¹⁰
21 It is the lack of competitive forces acting on a Public Utility which creates the
22 potential for a public interest concern.

⁷ As well, BC Hydro's non-integrated areas customers benefit from a portion of their electricity use being charged at Integrated System rates.

⁸ A complete copy of the definition of a Public Utility from Section 1 of the *UCA* is provided in Attachment A.

⁹ The definition of Public Utility in Section 1 contains five exclusions for: i) municipalities and regional districts offering services within their administrative boundaries, ii) sales to employees and tenants for their exclusive use, iii) petroleum/natural gas industry production, iv) geothermal production and v) agreements entered into by BC Hydro that are designated by Order from Government by way of the Lieutenant Governor in Council.

¹⁰ The Concise Oxford Dictionary, Tenth Edition, Revised, 2001, Oxford University Press.

- 1 In a Commission report issued in 2012 which explored whether certain new activities
2 of FortisBC Energy Inc. should be regulated, the Commission set out a guideline that
3 regulation is required when one of two conditions exist:
- 4 (a) “Natural monopoly characteristics are present and there is a need to regulate to
5 protect the public interest; and/or
- 6 (b) Legislation (such as the *Utilities Commission Act* or the *Clean Energy Act*),
7 requires an activity to be regulated.”¹¹
- 8 It is BC Hydro’s view that a Public Utility should be regulated if it is a monopoly
9 and/or it is in the public interest to regulate.

10 **5 There are a number of advantages with the *Utilities*
11 *Commission Act* continuing to serve as the regulatory
12 framework for all Public Utilities in B.C.**

13 **5.1 What is the *Utilities Commission Act* and what does it cover?**

14 The *UCA* is a Provincial statute that provides a single, consistent regulatory
15 framework for Public Utilities operating within B.C. The *UCA* is numbered from Parts
16 1 through 9 and contains over 100 sections dealing with various powers of the
17 Commission and the topics that they regulate. In totality, the *UCA* ensures that
18 Public Utilities are regulated effectively and in a fair and accountable manner. It
19 contains the flexibility to reduce the regulation of certain Public Utilities on a case by
20 case basis should the Government, or the Government and Commission (depending
21 on the nature of the exemption), determine that public interest concerns are
22 sufficiently addressed. In certain areas it also requires the Commission to consider
23 “*British Columbia’s Energy Objectives*”, which includes an objective that promotes
24 First Nation communities through the use and development of clean or renewable
25 resources.

¹¹ Commission Report in the matter of FortisBC Energy Inc. Inquiry into the Offering of Products and Services in Alternative Energy Solutions and Other New Initiatives, December 27, 2012, Page 7.

- 1 The following is a description of some of the key parts and sections of the *UCA*.
- 2 The Commission and its processes are set out in Parts 1, 6, 7, 8, 8.1 and 9. The
3 Commission is an impartial and independent administrative tribunal with formalized
4 hearing, order, and reconsideration processes. The Commission also has the power
5 to enforce its orders and decisions through the imposition of penalties.
- 6 Public Utilities are largely regulated under Part 3. This section includes the obligation
7 of a Public Utility to serve a customer, approval of improvements to service,
8 reporting and capital investment requirements, the sale of assets and mergers, and
9 rate setting. Part 3 also allows the Government to exempt a Public Utility from some
10 or all of Part 3 or Section 71 of the *UCA*, which deals with energy supply contracts.
- 11 Part 4 and 5 deal with the regulation of energy pipelines, purchasers and
12 processing, electricity transmission facilities, natural gas marketers and energy
13 supply contracts. Part 9 deals with a number of general matters but also the
14 adoption and administration of Mandatory Reliability Standards for the planning and
15 operating of the North American bulk electric system.
- 16 In the *UCA*, Section 22 and 88 (3) deal with exemptions from Public Utility
17 regulation. Section 22 deals with exemptions of Public Utilities from some or all of
18 Part 3 and Section 71, concerning energy supply contracts. Section 88 (3) deals with
19 exemptions of some or all sections of the *UCA*. Both types of exemptions require
20 approval from Government. Section 88 (3) exemptions also requires Commission
21 approval.
- 22 As well, the *UCA* requires, in certain circumstances, the Commission to consider a
23 number of government policy objectives, which are set out in Section 2 of the *CEA*
24 and are referred to as “British Columbia’s Energy Objectives”. The Commission must
25 consider these policy objectives when a public utility brings forward capital

1 investments or energy supply contracts for approval or acceptance.¹² Objective (I)
2 states “to foster the development of first nation and rural communities through the
3 use and development of clean or renewable resources”.¹³

4 **5.2 There are a number of advantages to retaining the *UCA* as the
5 principal regulatory framework for the regulation of all Public
6 Utilities in British Columbia.**

7 BC Hydro is of the view that it is efficient and effective for the *UCA* to be retained as
8 the principal regulatory framework for all Public Utilities operating within British
9 Columbia, including those indigenous utilities who meet the *UCA* definition of a
10 Public Utility. Having one set of rules and regulations for all Public Utilities should
11 minimize the potential for disagreements between Public Utilities and/or between
12 Regulators, thereby minimizing harm to customers in the form of higher regulatory
13 costs to be passed on to customers.

14 As described in Section 5.1, the *UCA* currently provides a comprehensive, single set
15 of regulatory considerations and requirements for all Public Utilities in B.C. Having
16 one set of rules reduces the regulatory and operational complexity for all Public
17 Utilities, customers and other public stakeholders. For example, it precludes
18 conflicting regulatory decisions arising from different regulatory bodies, it reduces
19 the complexity of the relationships between Public Utilities as they are governed by
20 the same regulatory framework. It also promotes the appropriate allocation of costs
21 and the efficient development of utility infrastructure between Public Utilities, thereby
22 reducing the risk that one or more of a Public Utility’s infrastructure assets becomes
23 impaired or no longer used and useful (stranded asset risk). This is particularly
24 relevant to BC Hydro. In addition to the over four million British Columbians we serve
25 directly, we also maintain interconnections with, and infrastructure, to provide
26 electricity and transmission service to energy sellers and other Public Utilities in B.C.

¹² Refer to *UCA* sections 44.1, 44.2, 46 and 71.

¹³ Refer to *CEA*, Section 2 (I).

1 As a regulated Public Utility, BC Hydro has a general obligation to serve customers
2 who wish to take service and who meet the conditions of BC Hydro electric tariffs.¹⁴
3 Where a potential BC Hydro customer is itself a Public Utility, having that Public
4 Utility regulated under a different regulatory framework (i.e., – regulated under a
5 different set of rules than the *UCA* and/or administered by a different regulator than
6 the Commission) has the potential to create uncertainty and duplication, impact
7 BC Hydro's ongoing operations and increase costs for existing and future
8 ratepayers. For example, if BC Hydro and a Public Utility customer of BC Hydro's
9 disagreed on the application of a BC Hydro rate or its terms of service, it is possible
10 that two different regulators viewing this dispute under different regulatory
11 frameworks could come to different conclusions and issue different decisions.
12 Another example is asset impairment or stranded asset risk. If a Public Utility
13 customer of BC Hydro's falls under the jurisdiction of a different regulator and/or a
14 different regulatory framework, the possibility exists that it could receive regulatory
15 approval to construct electrical utility equipment that could impair the value of
16 existing BC Hydro assets or render those assets stranded (not used and useful).
17 Under both examples, both BC Hydro and the Public Utility customer are exposed to
18 higher regulatory/legal risk, resulting in higher regulatory/legal costs and increased
19 cost recovery risk.

20 At the same time as the *UCA* offers consistency in the treatment of Public Utilities, it
21 also provides the Commission with flexibility to more lightly regulate a Public Utility
22 where that Public Utility can demonstrate to Government and the Commission how
23 its particular circumstances adequately meet or protect the broad public interest.
24 Examples of the types of questions that BC Hydro believes the Commission may
25 explore when considering a possible exemption from Public Utility regulation include:

¹⁴ The obligation to serve for a Public Utility is set out in Section 28 of the *UCA*.

- 1 (a) Is the Public Utility operating in a competitive market? (i.e. are there alternative
2 suppliers and products available to customers, or are there significant barriers
3 to alternative suppliers);
- 4 (b) To what extent does the Public Utility operate for the benefit, including the
5 financial benefit, of all of its customers; and
- 6 (c) What accountability does the Public Utility have to its customers? (i.e. is there
7 an opportunity for all customers to raise and have concerns about the cost and
8 provision of services addressed through a fair process under an arbiter that has
9 oversight and/or governance responsibilities for all of its customers).

10 BC Hydro believes this flexibility provides Government and the Commission with the
11 tools to grant lighter touch regulation after considering the characteristics of a Public
12 Utility and to the extent that those characteristics either do not raise or adequately
13 address public interest concerns.

14 We believe that the *UCA* is the appropriate regulatory framework for the regulation
15 of all Public Utilities in BC, including indigenous utilities that meet the *UCA* definition
16 of a Public Utility. It provides a consistent set of rules and regulations to protect all
17 Public Utility customers including those of BC Hydro while also providing the
18 flexibility to accommodate a wide range of Public Utility scenarios.

19 **6 There are a number of advantages with the
20 Commission continuing to serve as the administrator
21 of the *UCA* and principal regulator of all Public
22 Utilities in B.C.**

23 BC Hydro is of the view that having a single regulator in the Commission to balance
24 various public interests is more efficient as it reduces the potential for inconsistency
25 in regulatory decisions and improves the understanding of regulatory decisions by all
26 Public Utilities. Regulatory processes with consistent decision making criteria should
27 minimize the potential for disagreements between Public Utilities and/or between

1 Regulators, thereby minimizing harm to customers in the form of higher regulatory
2 costs to be passed on to customers.

3 Established through the *UCA* nearly forty years ago, the Commission operates as an
4 independent, non-partisan administrative tribunal overseeing Public Utilities in B.C.
5 Commissioners are appointed through a merit-based process to oversee the review
6 of all applications and regulatory processes concerning Public Utilities brought
7 forward to or by the Commission.¹⁵ Commissioners and Commission staff are also
8 required by law to avoid being in a conflict of interest with respect to the Public
9 Utilities that they oversee and cannot have any financial or beneficial interest in
10 Public Utilities that they regulate.¹⁶

11 The Commission maintains a collection of previous regulatory orders and decisions,
12 which explain the considerations made by the Commission in coming to regulatory
13 decisions. While the Commission is not strictly bound by these past orders and
14 decisions, the information they provide on the interests of various parties, and how
15 the Commission considered evidence in coming to a decision, provides valuable
16 insight into understanding how the Commission might view a matter that requires
17 regulatory review. The Commission is known to Public Utility industry participants,
18 customers and other public stakeholders. It provides specialized experience in
19 reviewing and adjudicating complex regulatory matters and has also established a
20 number of clear rules and guidelines for various regulatory matters.¹⁷ For example,
21 its Rules of Practice and Procedure help participants understand what certain terms
22 mean and how to participate in the Commission regulatory process. Other examples
23 cover specific policy guidelines and procedures.

24 Regarding the regulation of small Public Utilities, BC Hydro believes that the
25 financial and human resource burden of regulation is likely substantially higher for

¹⁵ Refer to *UCA*, Part 1, Section 2 (1).

¹⁶ Refer to *UCA*, Part 1, Section 11.

¹⁷ www.bcuc.com/resources/guidelines.html.

1 small Public Utilities than for large Public Utilities. BC Hydro believes that the
2 Commission should consider streamlined or expedited review processes which
3 would allow the public interest to be safeguarded while also allowing for a reduction
4 in the overall regulatory cost placed on the utility and ultimately borne by its
5 ratepayers. As well, the Commission may consider the creation of standard reporting
6 templates that would set out the format and nature of information required by the
7 Commission for fundamental purposes such as determining that Public Utility's
8 overall cost of service (Revenue Requirement) and for the setting of rates.

9 BC Hydro expects that there will be a need to adjudicate circumstances where a
10 new Public Utility wants to provide service where another Public Utility already
11 provides service (BC Hydro for example). Under the current regulatory framework,
12 the Commission would decide whether or not this is in the public interest. If different
13 regulatory frameworks and regulators applied to each of the new and incumbent
14 Public Utilities, that there would be no clear adjudication process and no single set of
15 Public Utility regulation rules by which to determine what is in the public interest.
16 This would create regulatory and business risks for both Public Utilities and higher
17 costs for customers.

18 **7 BC Hydro comments on the Independent Utility
19 Regulation Report requisitioned and submitted by
20 Commission Staff**

21 On May 28, 2019, the Commission filed the Utility Regulation Report as Exhibit A-8
22 in the Inquiry. In its submission, the Commission stated that it requisitioned the
23 independent report to inform the general discussion on regulation and when it is
24 used, public utility characteristics and the rationale for their regulation, and how the
25 need for regulation is assessed.

1 **7.1 BC Hydro has adopted some of the utility industry changes**
2 **noted in the Utility Regulation Report**

3 On electrical utilities and their regulation, the report notes that historically, electricity
4 has been provided as a bundled service where a single monopoly generates,
5 transmits and distributes electricity and provides customer service within a specific
6 area. The report also describes how incumbent utilities have historically used control
7 of the electric transmission highways to prevent new competitors from moving their
8 generation output to their customers.¹⁸

9 In the case of BC Hydro, our Open Access Transmission Tariff (**OATT**) provides
10 power sellers and wholesale customers, such as electric utilities and power
11 marketers, with access to BC Hydro's transmission system to move power within
12 British Columbia or to other transmission systems to access customers and markets
13 for their business needs¹⁹. Access to BC Hydro's transmission system through the
14 OATT is provided on a non-discriminatory basis with OATT rates being determined
15 on a cost of service basis and approved by the Commission.²⁰

16 The concept of retail access allows for a customer to utilize the electrical system of
17 the electrical utility to which it is connected, to service its own load directly through
18 the purchase of market energy or energy purchased from another seller(s). Retail
19 access is not available to BC Hydro's load customers. Government has commented
20 that "interest in retail access fluctuates with electricity market prices, with customers
21 interested when open market prices are lower than local supply and not interested
22 when market prices are higher than local supply. In a surplus situation, allowing
23 retail access increases the amount of surplus energy that BC Hydro must export,

¹⁸ Exhibit A-8, pages 6 and 8.

¹⁹ BC Hydro's system is part of the Western Interconnection; a wide area synchronous grid that includes the electricity grids in the provinces of Alberta and British Columbia, the Western United States and northern Baja Mexico. All of the electric grids in the Western Interconnection are electrically tied together during normal system conditions and operate at a synchronized frequency of 60 Hz.

²⁰ The cost-of-service basis for the OATT was originally set out in Commission Order No. G-43-98, and based on the Federal Energy Regulatory Commission (**FERC**) Order 888-A *pro forma* OATT. BC Hydro maintains its OATT to be comparable to the FERC *pro forma* OATT as amended from time-to-time, however, most of the OATT rate design concepts remain consistent with Commission Order No. G-43-98.

1 possibly at a loss, increasing costs borne by ratepayers who do not or cannot opt for
2 retail access... The prohibition of retail access can protect electricity consumers by
3 providing price stability and reducing the duplication of costs that must be passed on
4 to consumers (for example, duplicative systems of billing, customer service etc.). In
5 Canada, it is generally true that regions with low and stable electricity prices like
6 Quebec, Manitoba and British Columbia do not have full retail access... There is
7 evidence from the U.S. that the average retail price of electricity tends to be more
8 volatile in regions with full retail markets.²¹ The Government has also commented
9 that retail access may expose BC Hydro ratepayers to the cost of stranded assets,
10 the cost of which would be borne by a smaller rate base and has directed the
11 Commission to not set rates that would result in direct or indirect provision of
12 unbundled transmission service to retail customers in British Columbia unless
13 BC Hydro brings forward an application to do so.^{22, 23} BC Hydro has no plans to
14 advance retail access at this time.

15 **7.2 Both regulated and unregulated publicly-owned utilities exist
16 in British Columbia**

17 The Utility Regulation Report notes that there are differing views on whether
18 publicly-owned utilities should be regulated. It goes on to say that publicly-owned
19 utilities differ from shareholder-owned utilities in two important ways. "First, they are
20 ultimately accountable to taxpayers or customers - so their leader can be removed
21 by political actors. Second, they have no private shareholders, so there is no profit
22 interest to cause conflict with the customers' interests."²⁴

23 In British Columbia, public utility services provided by municipalities and regional
24 districts are an example of publicly-owned utilities which are not regulated by the

²¹ Comprehensive Review of BC Hydro: Phase 1 Final Report, Pages 18-19, Ministry of Energy, Mines and Petroleum Resources.

²² https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/electricity-alternative-energy/electricity/iepr/iepr_retail_access.pdf.

²³ Refer to OIC 51 dated February 14, 2019, Appendix B.

²⁴ Exhibit A-8, page 8.

1 UCA. BC Hydro notes that municipalities and regional districts, which are
2 incorporated and governed by the *Local Government Act*, are accountable to their
3 customers, who are also their citizens. If customers have concerns regarding their
4 service, they have the opportunity and right to demand improvements to their
5 service, including by voting out of power elected officials they deem ultimately
6 responsible for their service concern not being addressed. As well, because such
7 utilities are not operated for profit, any financial gains flow back to all of the
8 customers of the municipality or regional district. As all of the customers are either
9 residents or organizations that reside within the municipal boundary, customers
10 ultimately receive the financial benefits of the utility. Together, these factors provide
11 the municipality or regional district with accountability to and alignment with
12 customers. In doing so, they offer public interest protection against monopolistic
13 characteristics.

14 BC Hydro is an example of a publicly-owned utility that is subject to Public Utility
15 regulation. The Commission's role in regulating BC Hydro is reflective of BC Hydro's
16 unique position as a large vertically integrated utility serving most of the British
17 Columbia and ensures the public interest is adequately considered.

18 **8 Conclusion**

19 BC Hydro, as the largest Public Utility in British Columbia, provides low cost, high
20 reliability electricity to British Columbians in fulfillment of *British Columbia's Energy*
21 *Objectives* under the *CEA* and in light of its Public Utility obligations. The regulatory
22 framework for Public Utilities is relevant to the ongoing efficient operation and the
23 management of cost and risk of BC Hydro.

24 If an indigenous utility is a Public Utility, then it is currently subject to utility
25 regulation. BC Hydro believes that the current utility regulatory framework is
26 sufficient and appropriate. The existing *UCA* provides an effective, efficient and fair
27 regulatory framework for the regulation of all Public Utilities in British Columbia.

1 Maintaining the *UCA* as the common regulatory framework will reduce regulatory
2 and operational complexity between all Public Utilities, and reduces the potential for
3 higher risks and costs. The *UCA* also provides the Government and Commission
4 with sufficient flexibility to accommodate specific circumstances of the Public Utility
5 by adjusting the regulation requirements if the accommodation does not negatively
6 impact the public interest.

7 BC Hydro also believes that where an indigenous utility falls under the current
8 definition of Public Utilities, it is appropriate for the Commission to continue being the
9 default regulator, subject to exemptions where the particular circumstances justify
10 them. The Commission is known to Public Utility industry participants, customers
11 and other public stakeholders. The Commission is an administrative tribunal with
12 specialized experience and well considered processes suited for the continued
13 regulation of all Public Utilities in British Columbia.

14 BC Hydro thanks the Commission for the opportunity to participate in this inquiry
15 process.

BCUC Indigenous Utilities Regulation Inquiry

**Evidence of
British Columbia Hydro and Power Authority**

Appendix A

**Public Utility Definition from Section 1 of the
*Utilities Commission Act***

Public Utility definition from Section 1 of the *Utilities Commission Act*

“**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

- (a) 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, or
- (b) the conveyance or transmission of information, messages or communication by guided or unguided electromagnetic waves, including systems of cable, microwave, optical fibre or radiocommunications if that service is offered to the public for compensation,

but does not include

- (c) a municipality or regional district in respect of services provided by the municipality or regional district within its own boundaries,
- (d) a person not otherwise a public utility who provides the service or commodity only to the person or the person’s employees or tenants, if the service or commodity is not resold to or used by others,
- (e) a person not otherwise a public utility who is engaged in the petroleum industry or in the wellhead production of oil, natural gas or other natural petroleum substances,
- (f) a person not otherwise a public utility who is engaged in the production of a geothermal resource, as defined in the *Geothermal Resources Act*, or
- (g) a person, other than the authority, who enters into or is created by, under or in furtherance of an agreement designated under section 12 (9) of the *Hydro and Power Authority Act*, in respect of anything done, owned or operated under or in relation to that agreement;”