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August 2, 2019

Sent via email/eFile

BCUC INDIGENOUS UTILITIES REGULATION INQUIRY
EXHIBIT A-21

Mr. Donald Flintoff
Richmond, BC
don_flintoff@hotmail.com

Re: British Columbia Utilities Commission – Indigenous Utilities Regulation Inquiry – Project No. 1598998 - BCUC Information Request No. 1

Dear Mr. Flintoff:

Further to British Columbia Utilities Commission Order G-110-19, enclosed please find BCUC Information Request No. 1 to Donald Flintoff. In accordance with the Regulatory Timetable, please file your responses no later than Tuesday, September 10, 2019.

Sincerely,

Original Signed By:

Patrick Wruck
Commission Secretary

/nd



British Columbia Utilities Commission
Indigenous Utilities Regulation Inquiry

INFORMATION REQUEST NO. 1 TO DONALD FLINTOFF

**1.0 Reference: Exhibit C5-2, Section 3, pp. 10–13
Characteristics of Indigenous utilities**

On page 10 of Exhibit C5-2, Mr. Donald Flintoff (Flintoff) states:

...[B]oundaries for a municipality or regional district are usually easy to define. However, the indigenous nations' boundaries need to be determined. Indigenous lands may be reserves, villages, district lands, traditional lands, crown lands just to name a few. So, to be an indigenous utility and exempt from regulation, the boundaries need to be discussed further.

On page 11, Flintoff states: "If the indigenous nations own or operate a utility within their own boundaries (District Lands, Reserves, Villages, etc) then they should be exempt from regulation under the UCA."

On page 13, Flintoff states that "[b]y 'boundaries', I interpret this to mean - indigenous district lands (not traditional lands). As the district lands are scattered this is not the same as lands under the control of a BC municipality or regional district."

- 1.1 Please explain further why Flintoff considers that "indigenous nations own or operate a utility within their own boundaries" should be exempt from regulation under the *Utilities Commission Act* (UCA).
- 1.2 Please clearly identify what Flintoff identifies as "district lands."
 - 1.2.1 Please confirm, or explain otherwise, that Flintoff considers that a utility must operate within "district lands" to be exempt from regulation under the UCA.
 - 1.2.1.1 Please explain why Flintoff considers that "district lands" should be a defining factor in whether an Indigenous utility should be regulated under the UCA.

On page 12, Flintoff states:

By 'own' (have or hold as property, possess), I interpret this to mean - an indigenous nation must own (possess) a utility directly and not hold it through a corporation, partnership, joint-venture within or outside of their boundaries.

- 1.3 Please confirm, or explain otherwise, that Flintoff considers that for an Indigenous utility to be exempt from regulation under the UCA, the utility must be 100 percent owned by a single Indigenous Nation.¹

¹ As defined in section 1 of Order in Council No. 108, http://www.bclaws.ca/civix/document/id/oic/oic_cur/0108_2019.

- 1.4 Please explain further why Flintoff considers utilities held by Indigenous Nations through corporations, partnerships or joint ventures should not be exempt from regulation under the UCA.

**2.0 Reference: Exhibit C5-2, Section 5, p. 20
Non-voting parties**

On page 20 of Exhibit C5-2, Flintoff states:

Some municipalities are already imposing conditions on corporate entities (non-voting) in the Province. The issue of non-voting, non-band members on indigenous district lands must be addressed equitably in a similar fashion to how non-voting citizens or corporations are dealt with in municipalities and regional districts.

- 2.1 Please expand upon what “conditions” Flintoff is referring to.
- 2.2 Does Flintoff have a view on how the issue of non-voting, non-band members being served by an Indigenous utility beyond district lands could be addressed in a similar fashion to non-voting entities in municipalities.

**3.0 Reference: Exhibit C5-2, Section 5, p. 20
Disadvantages to existing utilities**

On page 20 of Exhibit C5-2, Flintoff states:

Indigenous utilities should have the same status and advantages as municipalities and regional districts under the UCA. However, the indigenous utilities should not have superior or inferior status as this would be discriminatory and disadvantageous to the other existing utilities and any future utility developments. If all parties are treated equally under the UCA, then we have a level playing field for all utilities including indigenous utilities.

- 3.1 Please provide hypothetical examples of any disadvantages to existing utilities resulting from different treatment of Indigenous utilities under the UCA.

**4.0 Reference: Exhibit C5-2, Section 5.2.1, p. 25
Reselling energy provided by another utility**

On page 25 of Exhibit C5-2, Flintoff states: “An indigenous utility should be able to resell or distribute energy provided by another utility within its own boundaries and to its district lands without being a public utility. An example of this is YVR.”

- 4.1 Please provide further explanation to support this statement, including why YVR may be analogous to an Indigenous utility.
 - 4.1.1 Would this include reselling or distributing energy to non-Indigenous peoples, non-voting Indigenous peoples and corporations? Please explain.