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Utilities Commission

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August 2, 2019

Sent via email/eFile

BCUC INDIGENOUS UTILITIES REGULATION INQUIRY
EXHIBIT A-22

Mr. Tim Thompson
Director
Kitselas Geothermal Inc.
22255 Gitaus Road
Terrace, BC V8G 0A9
tim@borealisgeopower.com

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

Dear Mr. Thompson:

Further to British Columbia Utilities Commission Order G-110-19, enclosed please find BCUC Information Request No. 1 to Kitselas Geothermal Inc. 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 KITSELAS GEOTHERMAL INC.

**1.0 Reference: Exhibit C6-3, Section 1, p. 8
Market forces**

Kitselas Geothermal Inc. (KGI) states:

Collectively, these five points connect reconciliation with energy market participation. As such, for this to be meaningful, IUs cannot be subject to ‘normal’ market forces which otherwise might push them out of the market.

This distinction is also important as many IUs will reside in jurisdictions and operational contexts where ‘normal’ BCUC [British Columbia Utilities Commission] adjudication is unnecessary, unwanted, and/or too expensive.

- 1.1 Please briefly explain further how “normal” market forces might push Indigenous utilities out of the market.

**2.0 Reference: Exhibit C6-3, Section 1, p. 8; Exhibit C4-2, p. 16
Ownership stake in Indigenous utilities**

On page 8 of Exhibit C6-3, KGI states:

In our view, a 51% ownership stake and equal representation on the Board would be sufficient for inclusion, which is KGI's current structure. However, we can see instances where ownership stakes are lower but meaningful control and/or participation by Indigenous groups exists, qualifying them an Indigenous Utility.

On page 16 of Exhibit C4-2, the FortisBC Group of Companies (FortisBC) states:

An investor owned public utility should not be able to avoid regulation by the BCUC, simply by granting a non-controlling interest to an ‘indigenous nation’. The potential for gaming would be significant because it would be possible for a public utility to grant an ownership interest to an ‘indigenous nation’ without obtaining BCUC approval.

- 2.1 Please clarify, in the view of KGI, whether a 51 percent ownership stake in an Indigenous utility could be achieved by:
- a) A single Indigenous Nation¹;
 - b) Multiple Indigenous Nations that collectively add up to 51 percent or more; and/or
 - c) A corporation wholly owned by an Indigenous Nation(s).

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

- 2.2 Please provide examples of where an Indigenous ownership stake could be below 51 percent, but meaningful control or participation exists.
 - 2.2.1 Please provide any views on how such scenarios could be captured in any definition of “Indigenous utility.”
 - 2.2.2 In KGI’s view, please comment on the potential for gaming or abuse where Indigenous ownership was below 51 percent, and how this might be mitigated.

**3.0 Reference: Exhibit C6-3, Section 1, p. 9
Dispute resolution**

KGI states in Exhibit C6-3:

...[I]t is our view that the BCUC need not duplicate the role to play in safety and/or customer service for IUs, beyond that which is already provided by Technical Safety BC and the existing dispute resolution systems.

If necessary, we could contemplate the BCUC being not the first step but rather the last step in a dispute resolution process, should parties be unable to resolve their differences - but this would have to be applied outside of any Indigenous self-governing regions.

We believe that relying on existing Indigenous dispute resolution capabilities also satisfies many earlier comments requesting First Nations oversight on relevant processes.

- 3.1 In a situation where the BCUC would exist as the last step in a dispute resolution process, please discuss if KGI has a view as to whether the BCUC’s role in dispute resolution should cover all customers.
 - 3.1.1 If not, please explain if this “last step” would not apply to some of the following customer groups: members of the Indigenous Nation; Indigenous peoples without voting rights in the Indigenous Nation; non-Indigenous peoples; and commercial entities.

**4.0 Reference: Exhibit C6-3, Section 1, pp. 9–10
Regulation of heat utilities**

On pages 9 to 10 of Exhibit C6-3, KGI provides a discussion in support of its suggestion that the BCUC should have no role in regulating prices of heat provided by Indigenous utilities, noting that competitive market factors will manage any price or related issues.

- 4.1 Please clarify, or explain otherwise, whether KGI’s position is that the BCUC should continue to regulate the price of heat provided by non-Indigenous utilities.

**5.0 Reference: Exhibit C6-3, Section 1, p. 11
Market access**

On page 11 of Exhibit C6-3, KGI states:

To ensure clarity with regards to intent, we are providing an expansion on what we mean by market access.

Market access is:

1. Not managed by any market incumbent. This includes building necessary interconnections on a 'no delay' basis.

- 5.1 Please explain further what is meant by "managed" in this instance.
- 5.2 Please discuss if KGI has a view on how the costs of building interconnections would be recovered.
- 5.3 Please discuss KGI's view on the role of Powerex Corp. in marketing electricity, including that produced by Indigenous utilities, in KGI's desired market access environment.

**6.0 Reference: Exhibit C6-3, Section 2, pp. 12–20
Regulatory framework for geothermal utilities**

On pages 12 to 20, KGI outlines its proposal for the regulatory framework for geothermal energy in BC.

- 6.1 Please clarify if KGI's proposed regulatory framework would apply to Indigenous and non-Indigenous geothermal utilities.

**7.0 Reference: Exhibit C6-3, Section 3, p. 24; Exhibit C2-2, p. 12
Reducing regulatory burden**

On page 24 of Exhibit C6-3, KGI states:

As an IU [Indigenous utility], we would request that the BCUC examine the burden associated with its regulation. Predominantly, its counterparties have been extremely large corporations, who have the capacity to absorb the requisite overhead costs, which attach to regulation under the UCA - per its normal application.

We would suggest that the BCUC has a need to provide low cost regulation, where it can still apply the principles of the UCA, but at a fraction of the cost. The advent of IUs will create a number of very small utilities, who cannot engage in the same way as large utilities. The BCUC needs to consider how it might deliver its service, with a total overhead burden that, for arguments sake, need to be < \$10,000 per year - and in some cases, well lower than that.

On page 12 of Exhibit C2-2, the British Columbia Hydro and Power Authority (BC Hydro) states:

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

- 7.1 Please discuss if KGI has a view on the potential for the BCUC to reduce the regulatory burden on Indigenous utilities by:
 - a) Using streamlined or expedited review processes; and
 - b) Creating standardized reporting templates.
- 7.1.1 Please discuss any other mechanisms that KGI considers could help reduce the regulatory burden on Indigenous utilities.