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August 12, 2019

VIA ELECTRONIC MAIL

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Dear Sirs:

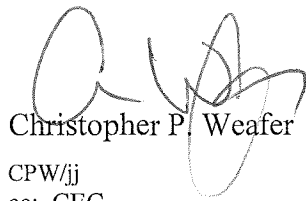
**Re: British Columbia Utilities Commission – Indigenous Utilities Regulation Inquiry –
 Project No. 1598998**

We are counsel to the Commercial Energy Consumers Association of British Columbia (the “CEC”). Attached please find the CEC’s first set of Information Requests on written evidence to Kitselas Geothermal Inc. and Canadian Geothermal Energy Association 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: BCUC
 cc: Registered Interveners

**COMMERCIAL ENERGY CONSUMERS ASSOCIATION
OF BRITISH COLUMBIA (“CEC”)**

**Intervener Information Request No. 1 to Kitselas Geothermal Inc. and Canadian
Geothermal Energy Association on Written Evidence**

**British Columbia Utilities Commission Indigenous Utilities Regulation
Project No. 1598998**

August 12, 2019

1. Reference: Exhibit C6-3 KGI Written Evidence page 5 and page 8

BC’s electricity market is an oligopoly. Entry into this market is restricted.

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 adjudication is unnecessary, unwanted, and/or too expensive.^{8,9}

- 1.1 Please describe the characteristics of the market that KGI believes makes the BC electricity market an oligopoly.
- 1.2 Please explain how KGI believes that regulation is appropriately utilized in an oligopolistic market and why.
- 1.3 Please describe the ‘normal market forces’ of the BC market which could occur to push IUs out of the market.
- 1.4 Is it KGI’s position that IUs require additional protection from normal market forces?
 - 1.4.1 If yes, what bodies does KGI believe are responsible for providing this additional protection?
 - 1.4.2 If KGI believes that the BCUC should provide additional protection from market forces, please describe in what way.

2. Reference: Exhibit C6-3, KGI Written Evidence page 9 and 10

The heat market is highly competitive. On a direct basis, despite the regulation of some participants, notably natural gas distributors and occasional strata or one-off heat projects, the market is open to competition from alternate forms of supply. At any one time, an energy buyer will have the choice of selecting from one or more supply types (electricity, natural gas – pipeline, natural gas – CNG, propane, fuel oil, diesel, solar, and/or wood) from any number of sellers.

Further, this price competition is not a function of scale (or size). For all heat providers, economically efficient equipment exists at the lowest scale. During the preparation of this submission, as articulated by a colleague, the barriers to entry for a wood stove or baseboard heating are quite low when wood is plentiful and electricity is already on site.

This is an important point, as we believe there can be more than one economically viable heat IU within any given jurisdiction. As such, internal price competition within this market is a real possibility, should market pricing diverge from readily available alternatives.

- 2.1 Please provide a rough estimate of the costs and time required for a customer to switch from one source of heat to another source of heat.

3. Reference: Exhibit C6-3, KGI Written Evidence page 11

2. IUs, from our perspective, are de facto Crown corporations, indistinguishable from other Crown Corporations, and therefore should enjoy access to the market on a par with BC Hydro, a crown corporation.

Our read on Crown corporations is that they are government-owned business enterprises that can either participate or dominate within a set market to meet public policy objectives of the crown.

It would appear to us that the operation of an IU, to meet the wide variety of objectives of the local Indigenous governments, is materially indistinguishable from this and furthers the BC government objectives around self-determination, noted prior.

- 3.1 Please confirm or otherwise explain that KGI considers IUs to be a crown corporation of the Indigenous government and not a crown corporation of the province.

4. Reference: Exhibit C6-3, KGI Written Evidence page 12 and page 12 and page 13

Table 1: Current Geothermal Regulatory Regime

Type of Regulation	Resource < 80°C	Resource ≥80°C
Rates, Customer Relations, Safety	BCUC / Technical Safety BC	Exempt / Technical Safety BC
Project Development and Pipelines to Customers	BCUC	BC Oil & Gas Commission
Energy Conversion Facilities	BCUC	Exempt

Our current exploration/drilling regulator, as of March 2017, is the BC Oil & Gas Commission (“BC OGC”). They enjoy broad powers of regulatory interpretation and have used those powers to impede project development actions which would otherwise be simpler and more cost effective to safely perform, either under alternate and adequate BC legislation, or under legislation that has been adopted and used in adjacent jurisdictions.

Table 2: Proposed Geothermal Regulatory Regime

Type of Regulation	Resource < 80°C	Resource ≥80°C
Rates, Customer Relations, Safety	BCUC / Technical Safety BC	Exempt / Technical Safety BC
Early exploration, i.e. core holes and slim wells; developments with flows from 0 to <100 l/s	BCUC	BCUC
Project Development when ≥80°C production and injection wells are involved with flows > 100 l/s	Not applicable	BC Oil and Gas Commission
Energy Conversion Facilities	BCUC	Exempt

- 4.1 Please provide KGI’s understanding of the rationale for the <80°C threshold in regulation forms.
- 4.2 Please identify who KGI considers would be responsible for making KGI’s proposed change in regulation.

5. Reference: Exhibit C6-3, KGI Written Evidence page 22

In our view, while a 51% ownership stake and equal representation on the Board would be sufficient for inclusion, we can see instances where ownership stakes are lower but meaningful control and/or participation still exists. This is particularly true in our industry – geothermal – which is relatively capital intensive.

- 5.1 Please further define KGI’s view of ‘meaningful control and/or participation’ and how identify how it might be measured by the BCUC.

6. Reference: Exhibit C6-3, KGI Written Evidence page 24

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.

As a potential Indigenous geothermal utility, we are concerned that the regulation of heat, and the decision matrix as to how much regulation is required, fails to capture the competitive context around geothermal heat generation, and therefore errs on the side of being overly burdensome.

6.1 Would KGI consider it appropriate for a maximum burden to be determined based on the size of the utility (either revenues, profits, customers etc.)?

6.1.1 If yes, please propose a metric that KGI considers might be appropriate.

6.1.2 If no, please explain why not.