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August 12, 2019

VIA ELECTRONIC MAIL

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Dear Ms. Sanchez:


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 First Nations Leadership Council 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 First Nations Leadership Council on
Written Evidence**

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

August 12, 2019

1. Reference: Exhibit C16-2 FNLC Written Evidence

A. Current Regulatory Barriers

Under the UCA, Indigenous utilities in BC are regulated as public utilities, which the FNLC asserts is an infringement of Aboriginal Title and Rights and yet another unwanted imposition of Canadian law into our inherent jurisdiction. Practically, it has the effect of discriminating against First Nations by hampering their efforts to attain self-determination. It does this by setting up administrative barriers under Part 3 of the UCA, such as lengthy rate application processes, and by applying a cost-benefit analysis that effectively excludes small utilities. The UCA has been criticized for adopting a narrow, economic-only analysis when considering rate-payer applications.⁴¹ Indigenous utilities may need to charge higher rates initially to reflect their small size and high start-up costs of renewable energy projects that do not benefit from the same subsidies as do the fossil fuel industry, or the economies of scale that large public utilities enjoy. The common difficulty faced by small power proponents or utilities subject to public regulation is that regulators are unlikely to approve a higher purchase price because they do not want to expose ratepayers to increased costs.⁴² Regulatory approval processes tend to restrict increases in electricity rates, which limit the deployment of renewable energy or smaller, community-based projects that could support self-sufficiency for a First Nation. Rate applications are analyzed for their economic implications without consideration for social, environmental, governance or other implications. For the purposes of this Inquiry, it is important to reframe the role of the regulator from one of restricting rate increases to overseeing more prudent decision-making that encompasses more than economic decisions.⁴³

- 1.1 Please provide a summary list of the non-economic decision-making criteria that FNCL considers would improve decision-making by a regulator.