

**REQUESTOR NAME:**

**NUU-CHAH-NULTH TRIBAL COUNCIL, COWICHAN TRIBES, GITANYOW FIRST NATION, HOMALCO FIRST NATION and B.C. FIRST NATIONS CLEAN ENERGY WORKING GROUP (“COLLECTIVE FIRST NATIONS”)**

**INFORMATION REQUEST ROUND NO: #1**

**TO: BRITISH COLUMBIA HYDRO & POWER AUTHORITY (“BCH”)**

**DATE: August 12, 2019**

**ORDER NO: G-62-19**

**APPLICATION NAME: BCUC INDIGENOUS UTILITIES REGULATION INQUIRY**

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**1.0 Reference: Exhibit C2-2, “3 BC Hydro’s Mandate and Obligations”, page 4, lines 2-7**

BCH states:

“BC Hydro provides regulated electricity service to its customers through the ownership and operation of electricity infrastructure assets across British Columbia. Largely constructed in the 1960’s, 1970’s and 1980’s, our assets consist of thirty hydroelectric and two natural gas fired generating stations, around 86,000 kilometers of transmission and distribution lines and about 300 substation, which we collectively refer to as the Integrated System.”

- 1.1 Please confirm that the BCUC or predecessor did not regulate the development by BC Hydro of the WAC Bennett/Shrum, Peace Canyon, Mica, Revelstoke, Seven Mile and Kootenay Canal generating projects and associated transmission, and the northern cables to Vancouver Island.
- 1.2 Please confirm that pursuant to Section 32 of the Hydro and Power Authority Act that: “... except as provide under this Act, the authority is not bound by any statute or statutory provision of British Columbia.”
- 1.3 Please confirm that under section 35 of the Hydro and Power Authority Act, the Provincial Government has issued directives to BC Hydro regarding dividend payments from BC Hydro to this government.
- 1.5 Please confirm that pursuant to Section 3(1) of the Utilities Commission Act (B.C.) the Lieutenant Governor in Council has issued directives to the BCUC regarding the exercise by the BCUC of its powers and the performance of its duties with respect to BC Hydro.

**2.0 Reference: Exhibit C2-2-, “5.2 There are a number of advantages to retaining the UCA as the principal regulatory framework for the regulation of all Public Utilities in British Columbia”, page 8, lines 7-13**

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

Table 2-1 in BC Hydro's Fiscal 2020 to Fiscal 2021 Revenue Requirements Application to the BCUC (Exhibit B-1) is a 7 page table of directions to the BCUC, in relation to BC Hydro, that have been repealed or modified.

In Chapter 2 of the same application in footnote 62 on page 2-26 it says:

<sup>62</sup> In Exhibit B-18 of the Fiscal 2017 to Fiscal F2019 Revenue Requirements Application, BC Hydro informed the BCUC that "OIC 101 adds as prescribed undertakings for the purpose of section 18 of the *Clean Energy Act* investments in infrastructure in Northeast British Columbia that primarily serve natural gas producers and processors (the new section 4(2) of the Greenhouse Gas Reduction (Clean Energy) Regulation). This will include BC Hydro's planned transmission project known as the Peace Region Electricity Supply (**PRES**) Project and accordingly, should we decide to proceed with PRES, BC Hydro will not be filing an application under section 45(5) of the *Utilities Commission Act* for a Certificate of Public Convenience and Necessity for the PRES Project."

In the transcript for the workshop that BC Hydro held on March 19, 2019 in relation to BC Hydro's Fiscal 2020 to Fiscal 2021 Revenue can be found the following:

1 Heritage contract inquiry with the Commission back in  
2 2003, and subsequent revenue requirement applications.  
3 So rebuilding that understanding and confidence is a  
4 particular objective of mine.  
5 I want to acknowledge that the Commission  
6 has been unable to effectively oversee our revenue  
7 requirements these past eight years, as the government  
8 effectively controlled rates through reviews and  
9 directions. And this also meant that there was little  
10 input from intervenors in the regulatory process. And  
11 I believe as a result, there has been a loss of trust  
12 between BC Hydro and Commissioners, and the Commission  
13 and intervenors on the other side. And as a result of  
14 that, we have a significant challenge to rebuild that  
15 trust, and rebuild that confidence, as well as our  
16 collective capacity to move through these complex  
17 processes.

18 To look at this history more  
19 optimistically, we have been here before, as we have  
20 returned to regulation after a long period of rates  
21 being frozen in the 1990s and the early 2000s. This  
22 is about the 20<sup>th</sup> proceeding at the Commission that I  
23 have personally participated in at my career. I have  
24 also been involved in a few projects and initiatives  
25 that would have benefited from such a proceeding.  
26 So, I personally appreciate how valuable an

2.1 Given for example Section 3(1) of the Utilities Commission Act and the directives issued thereunder to the BCUC with respect to BC Hydro, including as evidenced by Table 2-1, the contents of footnote 62, the extract from the above transcript and sections 32 and 35 of the Hydro and Power Authority Act is it accurate to suggest that there is one set of rules and regulations for all Public Utilities or has been since BC Hydro first was put under the oversight of the BCUC?

3.0 **Reference: Reference: Exhibit C2-2-, “5.2 There are a number of advantages to retaining the UCA as the principal regulatory framework for the regulation of all Public Utilities in British Columbia”, page 9, lines 3-8**

“Where a potential BC Hydro customer is itself a Public Utility, having the Public Utility regulated under a different regulatory framework (i.e., - regulated under a different set of rules than the UCA and/or administered by a different regulator than the Commission) has the potential to create uncertainty and duplication, impact BC Hydro’s ongoing operations and increase costs for existing and future ratepayers.”

- 3.1 Would BC Hydro’s interconnection requirements, Wholesale Tariff or Open Access Transmission Tariff be adversely and materially impacted if indigenous utilities were under the oversight of First Nations? Would material uncertainty and duplication be created?
- 3.2 Is there one regulator for all public electric utilities in Canada and the U.S.?
- 3.3 Is BC Hydro’s system interconnected directly or indirectly to public utility electric systems in Canada and the United States?
- 3.4 Are BC Hydro’s ongoing operations and costs adversely and materially impacted by the regulation of these public utility electric systems in Canada and the U.S. by regulators other than the BCUC? Is material uncertainty and duplication created?
- 3.5 Are these other systems adversely and materially impacted by the BCUC’s regulation, as it may be, of BC Hydro?
- 3.6 Does the U.S. Federal Energy Regulatory Commission’s regulation of public utilities and others in the U.S. electricity markets such as Powerex, a wholly owned subsidiary of BC Hydro, have an adverse and material impact on BC Hydro’s ongoing operations and increase costs for existing and future ratepayers?

4.0 **Reference: Exhibit C2-2, Miscellaneous**

- 4.1 When a third party e.g. a First Nation, develops a greenfield residential, commercial or industrial real estate project on reserve lands or otherwise, does the third party pay the cost of the associated electrical infrastructure or BC Hydro?
- 4.2 Does BC Hydro pay the third party any monies when the residential, commercial or industrial electrical infrastructure is transferred to BC Hydro?
- 4.3 Is the standard to which this electrical infrastructure is built in accordance with BC Hydro's interconnection requirements? Please explain.