August 26, 2019

Mr. Patrick Wruck
Commission Secretary and Manager, Regulatory Services
British Columbia Utilities Commission
Suite 410- 900 Howe Street
Vancouver, BC
V6Z 2N3

Delivered via email: commission.secretary@bcuc.com

Re: British Columbia Utilities Commission –
Indigenous Utilities Regulation Inquiry
Written Evidence of Coastal First Nations-Great Bear Initiative

Dear Mr. Wruck:

Please find attached our response to Commercial Energy Consumers Association of British Columbia Information Request No. 1 in the referenced matter.

Sincerely,

Paul Kariya
Director of Policy and Operations

COASTAL FIRST NATIONS
GREAT BEAR INITIATIVE

COASTAL FIRST NATIONS-GREAT BEAR INITIATIVE SOCIETY

Response to Information Request No. 1 from
Commercial Energy Consumers Association of British Columbia

British Columbia Utilities Commission Indigenous Utilities Regulation Inquiry
Proceeding No. 1598998

August 21, 2019

1.1 Please provide Coastal First Nations Great Bear Initiative's views on the need for rates to reflect differences in cost causation between rate classes.

In setting the rates of a public utility, a number of sometimes competing objectives (or principles) should be considered.

Among these principles is that customers should be charged rates that approximate the costs they impose on the system. Grouping customers into rate classes, and then seeking a revenue-to-cost ratio for the class that approximates unity, often achieve this principle.

Coastal First Nations ("CFN") believes that charging rates based on cost causation is an important principle, and that it should be considered along with other important principles (including simplicity, public acceptability, effectiveness in collecting the revenue requirement, and efficiency in promoting efficient use of resources, for example) when setting rates.

1.2 Could the Commission oversee such issues on a complaints basis as well? Please explain.

Coastal First Nations has argued in its evidence that Indigenous Nations/Bands should be able to form and operate utilities that are unregulated by the British Columbia Utilities Commission (the "Commission"), in cases where the majority of the customer base are members of that Nation/Band.

This argument is based on the proposition, supported by other evidence in this proceeding[1] and by the exemptions currently provided to municipalities and regional districts, that political accountability is a viable replacement for oversight by the Commission.

In its evidence, CFN recognized that, as a practical matter, it is possible that an Indigenous utility may serve some customers to whom the Band/Nation is not politically accountable. While it can reasonably be argued that the presence of such customers on the system should necessarily trigger Commission regulation, CFN has taken the position that this need not be the case, provided that there is a mechanism to ensure that Indigenous utilities cannot discriminate against these non-member customers. CFN has proposed a complaints-based system to achieve this end.

CFN believes that this protection against discrimination (another important rate making principle) can be achieved by ensuring that Nation/Band membership is not a criterion in describing rate classes or otherwise differentiating the rates paid by various customers. Simply, the Commission can ensure, in response to a complaint, that customers that impose similar costs on the system are not charged different rates as a function of their membership in the Nation or Band.

CFN does not believe that providing this protection leads to a need for the Commission to engage directly in the ratemaking process, as contemplated by the question. That is, CFN believes that, as with municipalities or regional districts, political oversight can be expected to provide a fair and reasonable balancing of ratemaking objectives, including whether rate differentiation by class is necessary in the circumstances.

In addition, CFN does not believe that it would be practical for the Commission to oversee such matters as rate class definition and cost allocation on complaint. Such oversight would walk directly into the rate setting process, where joint jurisdiction is simply impractical, since most (if not all) of the questions arising from such complaints would have a zero-sum nature. That is, a ruling by the Commission would affect not only the complaining customer's rates, but likely the rates of the Indigenous utility's other customers (and/or the utility itself).

[1] See for example: Evidence of FortisBC Group of Companies, July 15, 2019, Section 4.4.2.

This concern, for example, is why the *Utilities Commission Act* makes clear at section 59(4) that matters such a rates being just and reasonable, the existence of undue discrimination, and the definition of rate classes (whether service is provided under substantially similar circumstances and conditions) is "a question of fact, of which the commission is the sole judge". These questions are simply not amenable to joint oversight