

**Date Submitted:** October 24, 2019

**Proceeding name:** BCUC Municipal Energy Utilities Inquiry

**Are you currently registered as an intervener or interested party:** Yes, Interested Party

**Name (first and last):** Marie Crawford (on behalf of UBCM)

**City:** Richmond

**Province:** British Columbia

**Email:** [REDACTED]

**Phone number:** [REDACTED]

**Comment:**

The Union of BC Municipalities registered as an interested party recognizing that our local government members have an specific interest in this Inquiry.

October 23, 2019

British Columbia Utilities Commission  
Sixth Floor, 900 Howe Street  
Vancouver, BC  
V6Z 2N3

Attention: Mr. Patrick Wruck, Commission Secretary

**Re: *British Columbia Utilities Commission Inquiry into the Regulation of Municipal Energy Utilities***

The Union of BC Municipalities (UBCM) is the association that represents the interests of all local governments and eight member First Nations within BC. We wish to thank the Commission for conducting the Inquiry and providing local governments, and other interested parties, with an opportunity to comment.

On August 1, the BC Utilities Commission issued Order G-177-19 advising it was establishing an Inquiry “to examine the regulation of energy utilities affiliated with municipalities and regional districts.”

The scope of the Inquiry is described as follows:

*Section 1 of the UCA states that a “public utility” does not include “a municipality or regional district in respect of services provided by the municipality or regional district within its own boundaries”, thus offering an exclusion from regulation to these entities under certain circumstances. However, energy services offered in affiliation with municipalities and regional districts are ever changing as local governments strive to achieve environmental and economic benefits for their communities. Ownership and operating structures to achieve these community benefits have become complex. Further, the BCUC has received questions and complaints from individual stakeholders regarding such entities and their need for regulation. Thus, the BCUC seeks to achieve clarity regarding the appropriate level of regulation required to meet the needs of stakeholders while respecting existing oversight tools and objectives at the local government level.*

*Upon the completion of this Inquiry, the BCUC will consider if it is appropriate or necessary to:*

- i) seek advance approval from the Government of BC to offer a class of cases exemption to municipalities and regional district energy systems in certain circumstances; and/or*
- ii) make a recommendation to the Government of BC to review the definition of a “public utility” within the UCA as it relates to such entities.*

While UBCM does not have specific policy regarding the exemption provided under s. 1 of the *Utilities Commission Act* (UCA), we recognize the importance of this issue to our members who are, or may be considering, providing energy

services to their residents. Consequently, UBCM registered as an interested party to the Inquiry, but has also encouraged local governments, in part through an August 14<sup>th</sup> Compass news article, to register as interveners.

Based on comments we have received from our members, it is evident that there are a number of different models for providing energy services. Many of these models are referenced in BCUC Order G-177-19 including:

“establishing a municipally-owned corporation, entering partnering or joint venture agreements, a franchise agreement or outsourcing operations of a fully owned municipal energy system to a third party;...”

Despite the diversity of energy service provision there appears to be consensus amongst our members that a broad interpretation of s. 1 of the UCA, stipulating the exclusion of local governments and affiliates or partners in providing energy services from the definition of public utilities, is consistent with the Province’s legislation governing local governments and its desire to have our members respond to climate change challenges.

In regard to legislative authority, our members point to s. 8(2) of the *Community Charter* affording local governments with broad service powers: “a municipality may provide any service that the council considers necessary or desirable, and may do this directly or through another public authority or another person or organization.”

Despite the fact that a local government may provide this service through another “public authority or another person or organization”, the local government retains the ability to regulate, prohibit and impose requirements in relation to municipal services as outlined in s 8(3) [CC]. With regard to establishing an energy utility service the local government establishes rate setting bylaws and is directly accountable to its customers (residents) through the election process. The local government is the regulator of its energy service, accountable and transparent to its residents; as it is with all other services (i.e. water, sewer), so further regulatory oversight appears unnecessary.

In regard to climate action, UBCM would emphasize the important role and actions being taken by our local government members. For many local governments, their energy utilities are viewed as tools to advance policy that supports: reducing local GHGs and meeting climate action goals /targets; energy conservation and affordability; moving to renewable energy sources; holistic community planning that allows for the incorporation of energy considerations into other servicing decisions for their community.

If the Commission does not feel that the current exemption is broad enough to cover the scope of local government authority in this area as outlined above, perhaps amendments to the UCA should be sought to allow local governments the flexibility that is needed.

In conclusion, UBCM would encourage the Commission to: review the detailed submissions of our members; consider the existing broad legislative powers that have been granted to local governments; recognize the important role that local governments play in delivering energy services to their residents; and in doing so, are taking action to mitigate the impacts of climate change. UBCM supports the broad legislative powers provided to our members, believes that local governments are best positioned to serve the needs of their residents and, through energy service provision, can influence and advance climate action goals.

On behalf of our members, we thank you for the opportunity to provide our comments as an interested party to the Inquiry.

Yours truly,

A handwritten signature in black ink, appearing to read 'Maja Tait', written in a cursive style.

Maja Tait  
UBCM President