

Date Submitted: March 10, 2020

Proceeding name: BCUC Municipal Energy Utilities Inquiry

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

Name (first and last): Francis Cheung

City: Langley

Province: British Columbia

Email: [REDACTED]

Phone number: [REDACTED]

Comment:

Currently, municipalities can undertake district energy projects without BCUC review. Fortis and BC Hydro argue that municipalities should be subject to the same BCUC regulations as they do. Municipalities, however, argue that under the Community Charter municipalities retain core decision making.

March 10, 2020

By Electronic Filing:

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

Attention: Mr. Patrick Wruck, Commission Secretary

Dear Mr. Wruck,

**Re: British Columbia Utilities Commission ("BCUC")
An Inquiry into the Regulation of Municipal Energy Utilities
Order Number G-177-19**

The City of Langley is a municipal corporation incorporated under the *Community Charter* and the *Local Government Act*.

On August 1, 2019 the BC Utilities Commission (BCUC) issued Order G-177-19 establishing an inquiry to examine the regulation of energy utilities affiliated with municipalities and regional districts.

On January 28, 2020 the BCUC released guidance on a number of areas upon which the BCUC seeks further evidence. Specifically, the BCUC stated that evidence on the following areas will provide a useful insight for the BCUC to consider:

- the effectiveness of municipalities in the regulation of district energy utility services;
- benefits and risks to the public interest, including ratepayers, of a continued, expanded or removal of the municipal exclusion from the *Utilities Commission Act* (UCA);
- a critique of any policy rationale or circumstances upon which the municipal exclusion has been justified;
- the regulatory framework and jurisdiction by which municipal governments can provide district energy utility services;
- an analysis of the ownership structures outlined in Order G-177-19;
- the organizational and operating structures through which district energy utility services will be or could be delivered;
- alternatives to the current municipal exclusion under the UCA; and
- any explanation, historical reason, or rationale for the exclusion of municipalities from the definition of a "public utility".

To: Mr. Patrick Wruck

Re: BCUC - An Inquiry into the Regulation of Municipal Energy Utilities, Order Number G-177-19

Page 2

The City of Langley finds the scope of the inquiry concerning as it directly relates to the jurisdiction of local governments to provide district energy utility services that are not regulated by the BCUC. While the City of Langley does not own or operate a district energy utility at this time, the City of Langley may consider doing so in the future.

The provisions of the *Community Charter* and the *Local Government Act* grant local governments broad powers to provide services they consider necessary or desirable, and to do so either directly or through another public authority or another person. The City of Langley supports the initial submissions of the City of Richmond, the City of Vancouver, the City of Surrey, the City of North Vancouver, the City of Burnaby and the City of Abbotsford, that the exclusion of a municipality or regional district from the definition of “public utility” in the UCA is broad enough to capture energy utilities affiliated with municipalities and regional districts through the service delivery tools and mechanisms provided for by the *Community Charter* and *Local Government Act*. A local government, operating within its own boundaries, through the exclusion recognized in section 1 of the UCA, has the legal authority to provide energy and other utility services in accordance with the powers granted to local governments pursuant to the *Community Charter* and the *Local Government Act*.

The City of Langley further supports the initial submission of Metro Vancouver, requesting the creation of a new exclusion to the definition of “public utility” for persons, not otherwise public utilities, engaged in the production of renewal natural gas or thermal energy.

The Province, through the *Clean Energy Act*, *CleanBC*, the *Clean Energy Leadership Program*, and the *Local Government Act*, has recognized both that climate change is a global problem, and that local governments must play a key role in addressing climate change. Continued flexibility to structure arrangements to deliver energy services and pursue clean energy opportunities within their boundaries will assist municipalities and regional districts in responding to climate change and meeting their statutory mandates in this regard. A broad interpretation of the exclusion of municipalities, regional districts, and their affiliates from the definition of public utilities in the UCA is consistent with the province’s desire for innovative responses to climate action challenges and the role that local government can play within such response.

Municipalities and regional districts have a long history of effectively and efficiently providing public services, either directly or through third parties, including water, sewer and roads. Local governments already have authority to provide district energy utilities within their boundaries, either directly or through affiliates or partners. To suggest a narrower interpretation of the municipal exclusion in the UCA would frustrate the legislative scheme and interfere with the ability of a municipality to fulfil its municipal purposes set out in the *Community Charter*, including its Climate Action Charter commitments.

To: Mr. Patrick Wruck

Re: BCUC - An Inquiry into the Regulation of Municipal Energy Utilities, Order Number G-177-19

Page 3

We thank you for the opportunity to provide our comments.

Yours truly,
CITY OF Langley



Francis Cheung, P. Eng.
Chief Administrative Officer

