

James D Burns*
Jeffrey B Lightfoot*
Christopher P Weafer*
Gregory J Tucker, QC* ** ***
Harley J Harris*
Jennifer M Williams*
Barbara E Janzen
George J Roper*
Tony R Anderson
Brian Y K Cheng**
Georgia Barnard

Rose-Mary L Basham, QC, Associate Counsel*
Josephine M Nadel, QC, Associate Counsel*
Hon Walter S Owen, QC, QC, LLD (1981)
John I Bird, QC (2005)

Duncan J Manson*
Daniel W Burnett, QC*
Ronald G Paton*
Gary M Yaffe*
Jonathan I Williams*
Kari F Richardson*
Scott H Stephens*
David W P Moriarty
Katharina R Spatzl*
Charlene R Joanes
Lucky D Johal

Alan A Frydenlund, QC* **
Harvey S Delaney*
Paul J Brown*
Heather E Maconachie
Michael F Robson*
Paul A Brackstone* *
James W Zaitsoff*
Daniel H Coles* **
Sameer Kamboj
Steffi M Boyce
Brittney S Dumanowski

Allison R Kuchta*
James L Carpick*
Patrick J Haberl*
Terence W Yu*
James H McBeath*
Scott W Urquhart
Pamela E Sheppard*
Jocelyn M Bellerud*
Heather A. Frydenlund**
Patrick J Weafer
Laura A Buitendyk
+ Law Corporation
* Also of the Yukon Bar
** Also of the Alberta Bar
*** Also of the Ontario Bar
** Also of the Washington Bar

OWEN BIRD
LAW CORPORATION

PO Box 49130
Three Bentall Centre
2900-595 Burrard Street
Vancouver, BC
Canada V7X 1J5

Telephone 604 688-0401
Fax 604 688-2827
Website www.owenbird.com

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VIA ELECTRONIC MAIL

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, B.C. V6Z 2N3

Direct Line: 604 691-7557
Direct Fax: 604 632-4482
E-mail: cweafer@owenbird.com
Our File: 23841/0239

Attention: Marija Tresoglavic, Acting Commission Secretary

Dear Sirs/Mesdames:

**Re: British Columbia Utilities Commission - Inquiry into the Regulation of Safety ~
Project No. 1599100**

We are counsel to the Commercial Energy Consumers Association of British Columbia (the “CEC”). Below are the CEC’s written submissions and comments with respect to the above application as requested.

1. *What is the BCUC’s jurisdiction with respect to the regulation of safety and what aspects of a public utilities’ activities does it apply to?*

(a) *Does the BCUC have the authority under the UCA to set standards, rules or regulations with respect to safety?*

The CEC submits that the BCUC has broad jurisdiction with regard to regulation of public utilities, and this includes the capability to set standards, rules or regulations with respect to safety.

In section 23 of the *Utilities Commission Act* (the “UCA”), the Commission is provided with ‘general supervision of public utilities’, and which specifically identifies the ability to make orders with regard to safety devices in section 23(1)(c).

The CEC submits that ‘safety devices’ can be properly interpreted to encompass the safety aspects of equipment.

Similarly, in section 23(1)(g)(i) the Commission is provided with the ability to make orders about other matters including the safety, convenience or service of the public:

GENERAL SUPERVISION OF PUBLIC UTILITIES

23 (1) The commission has general supervision of all public utilities and may make orders about

- (a) equipment,
- (b) appliances,
- (c) safety devices,
- (d) extension of works or systems,
- (e) filing of rate schedules,
- (f) reporting, and
- (g) other matters it considers necessary or advisable for
 - (i) the safety, convenience or service of the public, or
 - (ii) the proper carrying out of this Act or of a contract, charter or franchise involving use of public property or rights.

(2) Subject to this Act, the commission may make regulations requiring a public utility to conduct its operations in a way that does not unnecessarily interfere with, or cause unnecessary damage or inconvenience to, the public.

The CEC submits that this section directly enables the Commission to review and make orders with regard to the safety aspects of the utility's equipment.

In section 26 the Commission is permitted to 'set standards' with respect to multiple aspects of the utility operation:

Commission may set standards

26 After a hearing held on the commission's own motion or on complaint, the commission may do one or more of the following:

- (a) determine and set just and reasonable standards, classifications, rules, practices or service to be used by a public utility;

- (b) determine and set adequate and reasonable standards for measuring quantity, quality, pressure, initial voltage or other conditions of supplying service;
- (c) prescribe reasonable regulations for examining, testing or measuring a service;
- (d) establish or approve reasonable standards for accuracy of meters and other measurement appliances;
- (e) provide for the examination and testing of appliances used to measure a service of a utility.

In particular, section 26(a) provides the Commission with the authority to set “just and reasonable standards, classifications, rules, practices or service to be used by a public utility.”

The CEC submits that the setting of standards, practices and service to be used by a public utility would be appropriately interpreted to include safety standards, safety practices and the safety aspects of services.

To the extent that the Commission has relied upon generally accepted safety protocols, or those specified by other bodies, any such reliance does not diminish the Commission’s authority.

Similarly, section 26(b) provides that the Commission may ‘determine and set adequate and reasonable standards for measuring quantity, quality, pressure, initial voltage or other conditions of supplying service’.

The CEC submits that this section speaks to the specifics of setting standards, and ‘other conditions of supplying service’ would reasonably include those of safety.

The CEC submits that there is nothing to suggest that the issue of safety would be excluded from Commission jurisdiction.

Further, the CEC notes that the UCA specifically provides broad jurisdiction in section 84:

GENERAL POWERS NOT LIMITED

84 The enumeration in this Act of a specific commission power or authority does not exclude or limit other powers or authorities given to the commission.

Overall the CEC submits that the UCA provides for broad jurisdiction for the regulation of safety.

Section 49(c) of the UCA references the issue of safety in the context of reporting.

The Commission is provided with the specific authority to examine accidents ‘occurring to or on the plant, equipment or other property of the utility, if the accident is of such nature as to endanger the safety, health or property of any person.’

Accounts and reports

49 The commission may, by order, require every public utility to do one or more of the following:

- (a) keep the records and accounts of the conduct of the utility's business that the commission may specify, and for public utilities of the same class, adopt a uniform system of accounting specified by the commission;
- (b) provide, at the times and in the form and manner the commission specifies, a detailed report of finances and operations, verified as specified;
- (c) file with the commission, at the times and in the form and manner the commission specifies, a report of every accident occurring to or on the plant, equipment or other property of the utility, if the accident is of such nature as to endanger the safety, health or property of any person;
- (d) obtain from a board, tribunal, municipal or other body or official having jurisdiction or authority, permission, if necessary, to undertake or carry on a work or service ordered by the commission to be undertaken or carried on that is contingent on the permission.

The CEC submits that such reporting authority speaks to the general expectation that the Commission may review safety protocols, and that nothing in the Commission could be readily construed to indicate that they may not set safety standards

The CEC notes that the Commission already explicitly measures safety issues for utilities internally, such as with the FBC Service Quality Indicators including Emergency Response Time and All Injury Frequency Rate.

Finally, the CEC notes that the BCUC’s jurisdiction to oversee safety has been well-reflected in much of its review and in the questioning and analysis undertaken in various proceedings.

The BCUC’s own website references its role in overseeing the safe and reliable supply of energy. BCUC’s webpage asserts:

ABOUT THE BCUC

WE ARE RESPONSIBLE FOR ENSURING YOU RECEIVE SAFE, RELIABLE ENERGY AND BASIC AUTO INSURANCE SERVICES AT FAIR RATES FROM THE BUSINESSES WE REGULATE. WE BALANCE THAT RESPONSIBILITY WITH THE NEED TO ENSURE SERVICE PROVIDERS ARE AFFORDED A REASONABLE OPPORTUNITY TO EARN A FAIR RETURN ON THEIR

INVESTMENTS. WE ARE ALSO THE ADMINISTRATOR OF THE *FUEL PRICE TRANSPARENCY ACT*.

The BCUC employs persons specifically to review safety aspects of applications.

BCUC

Safety Analyst - Energy Supply, Compliance, & Mandatory Reliability Standards

More about the BCUC: Our organization is an independent agency of the provincial government that is responsible for regulating energy utilities within the province, its compulsory automobile insurance rates and tolls related to intra-provincial pipelines. We work hard to ensure British Columbians get fair value for safe and reliable energy services and basic automobile insurance rates. While protecting the ratepayer and the public interest, we afford the entities that we regulate a reasonable opportunity to earn a fair return on their capital investments and in the case of compulsory insurance, ensure that costs are recovered and that there is adequate financial capacity to pay claims.

In the role of Safety Analyst, you will be responsible for the provision of professional technical analysis as it pertains to the general and specific safety practices and policies of BCUC-regulated entities. You will provide regulatory and policy expertise to support the BCUC's mandate with regards to safety in relation to utility operations. With jurisdiction determined by the Utilities Commission Act, you may be required to examine practices and policies related to a variety of safety subcategories including the safety of physical assets, public safety, and internal safety practices. Working within multi-disciplinary teams in a project-oriented environment, you will provide technical analysis to facilitate the review and support of the adjudication of the BCUC's decision-making process. You will ensure standards of procedural fairness for all stakeholders, and the economic prudence of operating and capital expenditures as well as the reliability of the province's energy service.

Overall, the CEC submits that there is extensive evidence to suggest that the BCUC is entitled to review and regulate utilities with respect to safety, and that this includes the capability to set standards, rules or regulations to the extent the Commission deems appropriate.

2. *Are there currently any legislative gaps in the oversight of public utilities with respect to safety?*

The CEC does not identify any gaps in the legislation with respect to the oversight of safety of public utilities.

3. **Are there any areas of legislative overlap or duplication in the oversight of public utilities with respect to safety?**

The CEC submits that in every area in which the Commission has regulatory oversight, including safety, there is legislation and regulation from all levels of government and non-government agencies that may have relevance.

Without being exhaustive, the following is a list of bodies that may have legislative relevance to safety.

- Technical Safety BC;
- Oil and Gas Commission;
- WorkSafe BC;
- Canada Health;
- Occupational Health and Safety Regulation;
- Environmental Management Act;
- Safety Standards Act;
- Canadian Centre for Occupational Health and Safety;
- Canadian Environmental Protection Act; and
- Canadian Electrical Code.

An exhaustive list identifying the overlaps of regulation with regard to utilities would be a very significant undertaking, and would not diminish the importance of the Commission's oversight of safety for public utilities.

4. **Would a workshop in support of the Inquiry be beneficial?**

The CEC submits that a workshop could be useful to identify and address any areas of safety concern that the Commission and/or interveners believe may not be adequately addressed in the current legislative regimes.

(a) ***If so, what would an appropriate scope for a workshop include?***

The CEC submits that the appropriate scope for a workshop could include:

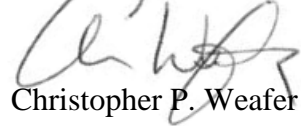
- A. Identification of potential safety concerns for employees, operators, contractors, public, environment;

- B. Key safety requirements relevant to energy utility operation, with specific attention to EV charging;
- C. Identification of other safety regulation bodies currently involved, and the current regulations and safety standards in place under those bodies; and
- D. Identification of areas that remain unregulated at present.

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: Registered Interveners