



November 12, 2020

Ms. Marija Tresoglavic
Acting Commission Secretary and Manager of Regulatory Services
British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Ms. Tresoglavic:

The Ministry of Municipal Affairs and Housing (the Ministry) is pleased to provide this letter of comment for the BC Utilities Commission (BCUC) inquiry into the regulation of safety (the Inquiry). The purpose of this letter is to provide information about British Columbia's technical safety system and to acknowledge our interest in the BCUC seeking the views of industry and stakeholders with respect to the legislative and regulatory foundations, and roles and responsibilities of participants in the safety oversight of the province's utilities and energy systems.

The role of the Ministry and Technical Safety BC

The Ministry is responsible for overseeing the provincial technical safety system for technologies regulated under the [Safety Standards Act](#) (the Act) and the 10 associated regulations, including the [Electrical Safety Regulation](#) and the [Gas Safety Regulation](#). These regulated technologies include electrical equipment; gas systems and equipment; boilers and boiler systems, pressure vessels, pressure piping and refrigeration systems and equipment, as well as elevating devices and passenger conveyors; amusement rides; and passenger ropeways. The precise list is contained in section 2(1) of the Act. The Act also establishes who can do regulated work on these technologies by establishing training requirements, issuing certificates of qualification and licensing contractors.

The Province has delegated to Technical Safety BC authority to administer most sections of the Act and regulations throughout the province since 2004. This delegation is done by regulation and further detailed by an [administrative agreement](#). Technical Safety BC is an independent, not-for-profit, fee for service, statutory corporation established by the Safety Authority Act, which is responsible for overseeing the safe installation and operation of the regulated technical systems and equipment. Technical Safety BC shares delegated authority with 10 local governments¹ that have limited authority for electrical and/or gas work, which enables them to issue electrical and/or gas installation and operating permits and to perform inspections.

¹ The 10 local governments with delegated responsibility for electrical and/or gas safety oversight are: Burnaby, Maple Ridge, the City and District of North Vancouver, Richmond, Surrey, West Vancouver, Vancouver, Kelowna and Victoria.

Relevant legislation and regulations

The Safety Standards Act applies throughout British Columbia unless there is a specific exemption. Consequently, all public utilities are subject to the provisions in the Act and the associated regulations, including safety oversight by Technical Safety BC/10 local governments unless specifically exempted. There are two statutory exemptions which are relevant to the Inquiry.

The first exemption is in section 3(1) of the Electrical Safety Regulation. This section states that the Electrical Safety Regulation “does not apply to a public utility as defined in the Utilities Commission Act in the exercise of its functions as a utility with respect to the generation, transmission and distribution of electrical energy.” Therefore, public utilities, such as BC Hydro and FortisBC Energy Inc., are exempt from electrical safety oversight by Technical Safety BC when work is related to the “generation, transmission and distribution of electrical energy.” Public utilities are not exempt from Technical Safety BC oversight for any other regulated technologies (e.g. boilers and elevators), with the exception of BC Hydro, as described below.

Section 32(1) of the Hydro and Power Authority Act provides for a second exemption in relation to BC Hydro relevant to the Inquiry. This section provides that except as otherwise specified in that Act, BC Hydro “is not bound by any statute or statutory provision of British Columbia.” Section 32(7) (w.1) of the Hydro and Power Authority Act specifies that the Safety Standards Act applies to BC Hydro “in respect of electrical equipment and regulated electrical work.” No other provisions in the Safety Standards Act apply to BC Hydro. Therefore, BC Hydro is only subject to Technical Safety BC oversight for their electrical equipment and regulated electrical work that is not related to the generation, transmission and distribution of electrical energy.

The regulation of gas public utilities differs from the regulation of electrical public utilities, in that there are no exemptions in the Gas Safety Regulation for public utilities². Technical Safety BC’s oversight for safety applies to all operations of a gas utility (e.g. boilers, electrical, elevators) except for operations upstream of the point at which gas received from a pipeline is metered, reduced and prepared for distribution to individual users. These operations and technologies are not regulated by Technical Safety BC because they are considered to be attached to or being used in the operation of a “pipeline” or “facility” as those terms are defined in the Oil and Gas Activities Act and therefore exempt under section 3 of the Safety Standards Act. These pipeline activities are instead regulated by the BC Oil and Gas Commission.

Areas that could benefit from clarity

The Ministry has heard from industry and stakeholders that there is a lack of clarity around roles and responsibilities in the regulation of safety as it relates to certain utilities and energy systems, such as those raised in the Inquiry into the Regulation of Electric Vehicle Charging Service and the Indigenous Utilities Regulation Inquiry. As the types of utility and energy systems have evolved, concern has been expressed that it can be difficult to determine whether an entity falls in or out of the “public utility” exemption specified in the Electrical Safety Regulation and whether the BCUC,

² BC Hydro remains exempt under the Hydro and Power Authority Act.

Technical Safety BC or the utility itself has responsibility for safety oversight. Further, what constitutes the “generation, transmission and distribution of energy” has not always been well understood to those not immediately involved in the utility industry.

The Ministry is hopeful that the Inquiry will help clarify for industry and stakeholders BCUC’s jurisdiction and role in the regulation of safety of different utility and energy systems. Specifically, the Ministry hopes the Inquiry will seek the input of industry and stakeholders on the safety oversight regimes applicable to:

- Independent Power Producers, including how they are defined;
- Energy utilities affiliated with municipalities and regional districts;
- District energy utilities;
- Indigenous utilities;
- Electrical Vehicle Charging Equipment; and
- BC Hydro, including exploring the potential advantages and disadvantages of the application of safety requirements under the Safety Standards Act not related to the generation, transmission and distribution of energy (such as boilers and elevators) to BC Hydro.

The Safety Standards Act and Technical Safety BC Oversight – Current Status

In 2004 the Safety Standards Act and Technical Safety BC were created. The intention was to create an integrated technical safety regime and an organization with responsibility for oversight whose primary focus was on safety.

Now in 2020, the province has a respected delegated authority in Technical Safety BC that has considerable expertise in the safety oversight of a range of regulated technologies, including electrical and gas. Technical Safety BC has also demonstrated leadership in developing and advancing a safety oversight model that uses the collection of data and safety officer experience paired with the use of algorithms and machine learning to predict where hazards are likely to be found and to target assessment resources to priority areas. This model has had demonstrated success and its application to utility and energy system regimes could help further promote safety for British Columbians. One of the advantages of this model is that it is scalable. Resources are dedicated to areas in greatest need of oversight, such as sites or operations with previous non-compliances, and are correspondingly reduced in areas with a proven safety record.

As the BCUC has legislated responsibility for safety, the Inquiry may want to consider whether the application of the Safety Standards Act and oversight by Technical Safety BC would strengthen and clarify the safety oversight regime for the different types of utilities and energy systems.

Page 4

In conclusion, the Ministry is interested in seeing the Inquiry identify areas where industry and stakeholders might benefit from more clarity in the regulatory oversight of safety of utilities and energy systems, and looks forward to learning more about industry's view of the roles of the different parties involved in the regulation of safety as the Inquiry progresses.

Yours Truly,

A handwritten signature in black ink, appearing to read "C. May". The signature is fluid and cursive, with a large initial "C" and a stylized "M" and "A".

Cheryl May
Assistant Deputy Minister