



March 25, 2021

**BCUC Inquiry into the Regulation of Safety
Exhibit A-7**

Sent via eFile

To: Registered Parties

Re: British Columbia Utilities Commission – Inquiry into the Regulation of Safety – Project No. 1599100 – Proposed Stage 1 Sub Issues

By Order G-241-20, dated September 23, 2020, the British Columbia Utilities Commission (BCUC) established an inquiry to examine the role of the BCUC in the regulation of safety (Inquiry).

In Appendix B to Order G-241-20, the BCUC described its responsibility for ensuring safe and reliable energy supply at fair rates for energy users across the province. The BCUC also identified several recent BCUC reviews that included safety considerations and concluded that it is essential for the BCUC to seek clarity on its jurisdiction over safety.

The BCUC sought and received written submissions from interveners and interested parties regarding the BCUC's jurisdiction with respect to the regulation of safety, legislative gaps or overlaps, and whether a workshop in support of the Inquiry would be beneficial.

Following a review of these submissions, by Order G-342-20, the BCUC determined that further examination of its mandate with respect to safety was required. The BCUC proposed a two-staged approach to the Inquiry, with Stage 1 focusing on: (1) the nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities under the *Utilities Commission Act (UCA)*; (2) the conditions, if any, under which the BCUC can forbear from regulating the safety of public utilities within its jurisdiction, as allowable under the UCA; and (3) setting out a framework of key principles to guide the BCUC in carrying out its safety-related duties. Stage 2 would explore the application of this framework and would culminate in a final report.

On Wednesday, January 27, 2021, the BCUC hosted a web-based procedural conference to allow interveners to comment on the BCUC's proposed approach to the Inquiry. At the procedural conference, interveners were generally supportive of a two-staged approach and suggested that there would be value in the BCUC issuing a set of "sub issues" to help guide intervener submissions during Stage 1.

By Order G-34-21, dated January 29, 2021, the BCUC established a deadline of March 25, 2021 for the BCUC to issue Proposed Stage 1 Sub Issues. These proposed sub issues are outlined in Appendix A attached hereto. Intervener comments on the Proposed Stage 1 Sub Issues are to be filed with the BCUC by **Thursday, April 29, 2021**.

The Proposed Stage 1 Sub Issues do not change or limit the scope of the Inquiry. The BCUC remains interested in receiving input on the broader questions laid out in Order G-342-20, but hopes that issuance of the Final Stage 1 Sub Issues on July 8, 2021 will help interveners frame their submissions and will support the development of a robust and effective set of key principles at the conclusion of Stage 1.

Sincerely,

Original signed by Ian Jarvis for:

Patrick Wruck
Commission Secretary

CD/cm

Attachment

British Columbia Utilities Commission
An Inquiry into the Regulation of Safety

PROPOSED STAGE 1 SUB ISSUES

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1.0 INTRODUCTION

In accordance with Order G-34-21, dated January 29, 2021, the British Columbia Utilities Commission (BCUC) proposes the following sub issues for Stage 1 of the BCUC Inquiry into the Regulation of Safety:

- Sub Issue 1 – Keeping Informed;
- Sub Issue 2 – Scope of the BCUC’s Safety Mandate;
- Sub Issue 3 – Safety in BCUC Adjudications;
- Sub Issue 4 – Effects of BCUC Safety Regulation on Regulatory Burden;
- Sub Issue 5 – Regulatory Gaps; and
- Sub Issue 6 – Regulatory Overlaps.

These sub issues do not limit the scope of intervenor submissions on Stage 1, but rather are provided in response to requests from intervenors for additional support in understanding some areas the BCUC is interested in exploring in depth during Stage 1. The Panel hopes that, when finalized, the Stage 1 Sub Issues will help intervenors frame their Stage 1 submissions and will support the development of a robust and effective set of key principles to guide the BCUC in carrying out its safety-related duties.

2.0 SUB ISSUE 1 – KEEPING INFORMED

Section 23 of the *Utilities Commission Act* (UCA) states, in part, that the BCUC “has general supervision of all public utilities.” Further, section 24 of the UCA states that “In its supervision of public utilities, the BCUC must make examinations and conduct inquiries necessary to keep itself informed about (a) the conduct of public utility business, (b) compliance by public utilities with this Act, regulations or any other law, and (c) any other matter in the commission's jurisdiction.”

The BCUC is interested in exploring what it means for the BCUC to “keep itself informed” with respect to public utility safety and in exploring the BCUC’s general safety oversight responsibilities. Some relevant questions intervenors may wish to consider on this area in their submissions include:

1. What are the minimum requirements the BCUC must have in place to ensure the BCUC is informed of matters relating to public utility safety?
2. How should the BCUC keep itself informed of matters relating to public utility safety?
 - a. Should public utilities provide regular reporting to the BCUC on safety-related matters? If yes, on what frequency?
 - b. Should public utilities provide ad hoc reporting to the BCUC in the event of a serious incident, such as fatality, personal injury, significant damage to infrastructure, sabotage or other illegal activity requiring police involvement, etc. If yes, within what timeframe should ad hoc reports be required?
 - c. Should public utilities notify the BCUC if they are in breach of safety specific regulatory requirements or if there is a safety violation? If yes, within what timeframe should notifications be required?
 - d. Should public utilities notify the BCUC if they have received a safety-related administrative penalty, or had a work site shut down? If yes, within what timeframe should notifications be required?

- e. Should the BCUC rely on other agencies with jurisdiction over public utility safety to keep the BCUC informed on matters relating to their jurisdiction? If yes, what steps might the BCUC take to ensure it receives such information from the other agencies?
 - f. Should the BCUC rely on complaints to keep itself informed about public utility safety matters?
 - g. Should the BCUC rely on BCUC-generated questions to public utilities, such as compliance letters, to keep itself informed about public utility safety matters?
 - h. Section 37 of the UCA states, in part, that the BCUC may appoint a supervisor or inspector to inspect “the system, works, plant, equipment or service of a public utility with a view to establishing and carrying out measures for... the safety of the public and the users of the utility’s service.” Should the BCUC rely on appointing inspectors and/or supervisors to keep itself informed about public utility safety matters?
 - i. Are there any instances where the BCUC should not be informed of safety-related items? If yes, what specific scenarios and why?
3. Should the BCUC require public utilities to include certain safety-related information in their annual reports to the BCUC?
 - a. If yes, what safety-related information should be required? For instance, should information on safety-related expenditures; safety metrics; reliability metrics; incident reporting; leading indicators; safety violations; and/or administrative penalties be required?

3.0 SUB ISSUE 2 – SCOPE OF THE BCUC’S SAFETY MANDATE

In Appendix A to Order G-241-20, the BCUC acknowledged that safety is a broad term. The BCUC indicated that it envisioned the regulation of safety as comprising the categories of asset safety, worker safety, and public safety, but that it also looked forward to understanding the various other framings interested parties may apply. The BCUC is interested in examining this concept further in Stage 1, including whether there are other aspects of public utility safety, aside from asset, worker, and public safety, that fall within the BCUC’s mandate.

We invite interveners to consider how broad the BCUC’s mandate for public utility safety is, in particular:

1. Do the categories of asset safety, worker safety, and public safety encompass the extent of the BCUC’s mandate with respect to public utility safety?
2. Should the safety of the environment be more explicitly considered?
3. Are there other categories of safety that the BCUC should consider? For example, what, if any, consideration should the BCUC give to customer safety and/or the safety of energy supply?

4.0 SUB ISSUE 3 – SAFETY IN BCUC ADJUDICATIONS

Pursuant to the UCA, public utilities come before or interact with the BCUC for several reasons, including expenditure schedule applications (section 44.2), revenue requirements applications (RRAs) (sections 59 to 61), long-term resource and conservation planning (LTRP) applications (section 44.1), and Certificate of Public Convenience and Necessity (CPCN) applications (sections 45–46). At present, there are no formal requirements for addressing safety in each of these regulatory processes. The BCUC is interested in exploring how it should

consider and address public utility safety in BCUC adjudications. Some relevant questions interveners may wish to consider in their submissions include:

1. How should public utility safety be considered in expenditure schedule applications before the BCUC?
 - a. Should safety be considered in all expenditure schedule applications? If yes, should there be a standardized approach for evaluating safety risks across utilities?
 - b. Should minimizing worker, asset, and/or public safety risks be a criterion in the BCUC's determination of the public interest?
2. How should public utility safety be considered in RRAs before the BCUC?
 - a. Should safety be considered in all RRAs?
 - b. Should public utilities be required to separately identify safety-related expenditures?
 - c. Should public utilities be required to identify any safety-related administrative penalties?
 - d. How should the BCUC review safety-related expenditures and what level of information should be required?
 - e. Should the reasonableness and appropriateness of a public utility's safety-related expenditures be a criterion in the BCUC's determination of whether a public utility's rates are just and reasonable?
3. How should public utility safety be considered in LTRP applications before the BCUC?
 - a. Should safety be considered in all LTRP applications?
 - b. Should a public utility's long-term plans for addressing worker, asset, and/or public safety risks be a criterion in the BCUC's determination of the public interest?
4. How should public utility safety be considered in CPCN applications?
 - a. Should safety be considered in all CPCN applications?
 - b. Should the BCUC's CPCN Guidelines be updated to include safety as an item that must be addressed in a CPCN application? If yes, should the guidelines include a standardized approach for evaluating safety risks across utilities?
 - c. Should minimizing worker, asset, and/or public safety risks be a criterion in the BCUC's determination of the public interest?
5. How should safety be considered in any other applications that the BCUC may receive?

5.0 SUB ISSUE 4 – EFFECTS OF BCUC SAFETY REGULATION ON REGULATORY BURDEN

In Appendix A to Order G-241-20, the BCUC noted its expectation that the approach and experiences of public utilities relating to safety would vary depending on, among other things, the nature and scale of the public utility's energy system. The BCUC regulates a wide range of public utilities, with varying degrees of system complexity, expertise, and customer base. Regulatory requirements that may be well suited to certain public utilities may place a disproportionate burden on others or fail to capture unique safety risks.

Some relevant questions interveners may wish to consider on this area in their submissions include:

1. How would incorporating safety into the BCUC's reporting requirements impact the regulatory burden placed on public utilities?
 - a. Do opportunities exist to leverage existing reporting processes (e.g., reports required by other regulatory bodies) to minimize the cost and/or administrative burden associated with reporting to the BCUC? If yes, what?
2. What factors should the BCUC consider when determining the safety reporting requirements for public utilities? For example, should reporting requirements be tailored to the level of safety risk and/or consequences?
3. How would incorporating safety into BCUC adjudications impact the regulatory burden placed on public utilities?
 - a. Do opportunities exist to leverage existing review processes (e.g., approvals required from other regulatory bodies) to minimize the cost and/or administrative burden associated with considering safety in BCUC adjudications? If yes, what?
4. Does the size of a public utility have any bearing on how the BCUC should regulate safety?
 - a. If yes, how?

6.0 SUB ISSUE 5 – REGULATORY GAPS

Interveners have identified areas in which there may be legislative gaps with respect to the regulation of public utility safety. These gaps may exist as a result of specific statutory exclusions or the development of new and emerging technologies. The BCUC is interested in clarifying its responsibilities over public utility safety in these instances. We invite interveners to consider, in particular:

In circumstances where there is no regulatory body specifically empowered with authority for public utility safety, for example due to purposeful exemptions from other safety-related legislation or emerging technologies, does responsibility for safety oversight fall to the BCUC pursuant to section 23(1) of the UCA?

- a. If not, why not?
- b. If not, who is responsible for providing safety oversight in these instances?

7.0 SUB ISSUE 6 – REGULATORY OVERLAPS

Interveners have also identified areas where there may be legislative overlap or duplication with respect to the regulation of public utility safety. The BCUC is interested in exploring its responsibilities in these instances and whether there are ways to make efficient use of existing information and/or processes. Some relevant questions interveners may wish to consider in their submissions include:

1. Does the existence of another regulatory body with overlapping jurisdiction relieve the BCUC of its responsibility under the UCA for safety oversight over that aspect of a public utility's work?
 - a. If yes, what specific provisions of the UCA allow for such forbearance? Should the BCUC consider exemptions in certain circumstances?
 - b. If yes, is there any safety-related reporting the BCUC ought to continue to receive despite such forbearance, either from the other regulatory body or from the public utilities?

- c. If not, how should the BCUC work with other agencies with overlapping jurisdiction? For example, are formalized working relationships required?
 - d. If not, how can the BCUC ensure regulatory efficiency whilst also ensuring it keeps itself informed?
- 2. What is a reasonable level of information that should be provided to the BCUC regarding public utility compliance with safety matters overseen by another regulatory body?
- 3. Should the BCUC be notified of safety violations that occur under the jurisdiction of other regulatory bodies?
- 4. Should the BCUC assess or ensure that public utilities comply with safety regulations that are under the jurisdiction of another regulatory body?
- 5. If a public utility is not in compliance with another regulatory body's safety regulations, what responsibility and/or authority, if any, does the BCUC have to take action?