

**Fred James**

Chief Regulatory Officer

Phone: 604-623-3918

Fax: 604-623-4407

[bchydroregulatorygroup@bchydro.com](mailto:bchydroregulatorygroup@bchydro.com)

April 29, 2021

Mr. Patrick Wruck  
Commission Secretary and Manager  
Regulatory Support  
British Columbia Utilities Commission  
Suite 410, 900 Howe Street  
Vancouver, BC V6Z 2N3

Dear Mr. Wruck:

**RE: British Columbia Utilities Commission (BCUC or Commission)  
British Columbia Hydro and Power Authority (BC Hydro)  
BCUC Inquiry into the Regulation of Safety (Inquiry)**

---

BC Hydro writes in accordance with BCUC Order No. G-34-21 to provide its comments on the Proposed Stage 1 Sub Issues for this Inquiry that were set out by the BCUC in its letter dated March 25, 2021.<sup>1</sup>

BC Hydro provides comments about the Proposed Stage 1 Sub Issues below and provides additional comments on some of the questions posed under the Proposed Stage 1 Sub Issues in Appendix A of this submission.

In providing its comments, BC Hydro has focused its response around the questions the BCUC seeks to address in Stage 1 of the Inquiry, specifically:<sup>2</sup>

- (a) What is the nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities under the Utilities Commission Act (**UCA**)? Does the UCA require the BCUC to perform certain duties?
- (b) Under what conditions, if any, may the BCUC forbear from regulating safety of public utilities within its jurisdiction, as allowable under the UCA? and
- (c) Should the BCUC establish a general framework of key principles to carry out its duties to regulate safety of public utilities? If so, in developing a framework what key principles should be included, and what else might be included in that general framework?

The BCUC explained that, at the conclusion of Stage 1, it will prepare a report that establishes a general framework of key principles for its regulation of safety (**Safety**

<sup>1</sup> Exhibit A-7.

<sup>2</sup> Exhibit A-4.

**Regulation Framework**). Stage 2 of the Inquiry will then concern the BCUC's application of the Safety Regulation Framework to its regulation of public utilities and establish how the BCUC will implement its mandate with regards to safety.

With these goals in mind, BC Hydro respectfully submits that many of the questions under the Proposed Stage 1 Sub Issues appear premature and may be more appropriately addressed as part of Stage 2 of the Inquiry, if at all. Further, it is clear that the outcome of Stage 1 of the Inquiry will necessarily inform the scope and breadth of Stage 2. As such, many of the questions as currently posed may no longer be relevant or they may require modification. BC Hydro's comments on the Proposed Stage 1 Sub Issues and questions reflect this staged approach to the Inquiry.

Before providing its comments on the Proposed Stage 1 Sub Issues, BC Hydro would first like to reemphasize that safety is an overarching, organization-wide, core value for us. We place "safety above all" and that reflects the expectation we have of our workforce, contractors and the public that safety requirements are always followed.

## SUMMARY

In BC Hydro's view, Sub Issue 2 (Scope of the BCUC's Safety Mandate), Sub Issue 5 (Regulatory Gaps) and Sub Issue 6 (Regulatory Overlaps) are appropriate issues for inclusion in Stage 1 of this Inquiry as they are consistent with the questions the BCUC seeks to address in Stage 1. However, BC Hydro notes that a number of the questions posed under these Sub Issues are premature and should be deferred for later consideration, if at all. BC Hydro's comments about those questions are provided in Appendix A.

BC Hydro respectfully submits that Sub Issue 1 (Keeping Informed), Sub Issue 3 (Safety in BCUC Adjudications) and Sub Issue 4 (Effects of BCUC Safety Regulation on Regulatory Burden) go beyond the scope of Stage 1 of this Inquiry and, as such, are more appropriately addressed as part of Stage 2 of this Inquiry, as required.

As a general comment, BC Hydro is concerned about the scope and breadth of the more than 50 questions posed under the Proposed Stage 1 Sub Issues. While answering the questions proposed by the BCUC appears to be voluntary,<sup>3</sup> BC Hydro expects that the majority of interveners will endeavor to answer most, if not all, of the proposed questions. Given that there are 21 interveners registered in this Inquiry, BC Hydro believes that the number of sub issues and questions should be streamlined and focused on the goals of Stage 1 of the Inquiry so that the record of the Inquiry does not become unwieldy and unnecessarily complex.

---

<sup>3</sup> For example, for the Sub Issues 1, 3 and 4 questions, the BCUC states: "Some relevant questions interveners may wish to consider on this area in their submissions include..."

## **SUB ISSUE 1 (KEEPING INFORMED)**

Sub Issue 1 and the questions proposed concern the scope of public utility reporting on safety information to the BCUC, including how it should be reported. These matters will necessarily be informed by the Commission's consideration of the nature and extent of its jurisdiction with respect to the regulation of safety and therefore, assume an outcome that has not yet been determined. As such, BC Hydro is of the view that Sub Issue 1 and all questions proposed under this issue are premature and are more appropriately considered in Stage 2 of the Inquiry, if and as necessary.

Accordingly, BC Hydro respectfully submits that Sub Issue 1 should be removed from the Proposed Stage 1 Sub Issues.

## **SUB ISSUE 3 (SAFETY IN BCUC ADJUDICATIONS)**

Sub Issue 3 proposes to explore the nature and extent of public utility safety considerations in the context of certain BCUC adjudications, specifically expenditure schedule applications, revenue requirement applications (**RRAs**), long-term resource and conservation planning (**LTRP**) applications, and Certificate of Public Convenience and Necessity (**CPCN**) applications.

Like the questions proposed under Sub Issue 1, these questions are similarly premature and relate to matters that are more appropriately considered in Stage 2 of the Inquiry, which will address how the Safety Regulation Framework will be applied and how the BCUC will implement its mandate with regards to safety. In other words, the matters asked about concern how the key principles might be implemented rather than informing the establishment of the key principles themselves.

Furthermore, the BCUC notes in setting out the proposed Sub Issue 3 that, at present, there are no formal requirements for addressing safety in expenditure schedule applications, RRAs, LTRP applications or CPCN applications. In BC Hydro's view, that is appropriate, because the facts and circumstances giving rise to these types of applications are never the same and the issues around safety, to the extent they arise, are often different. As such, public utility safety considerations should be considered in the context of each application where necessary and based on the particular circumstances of the case. It would be difficult, if not impossible, to create a "one size fits all" approach for how public utility safety matters should be dealt with across each of the listed applications.

Accordingly, BC Hydro respectfully submits that Sub Issue 3 should be removed from the Proposed Stage 1 Sub Issues and the BCUC should continue to address public utility safety matters in applications before it on a case-by-case basis, as required. Alternatively, Sub Issue 3 may be considered in Stage 2 of the Inquiry, if and as necessary.

**SUB ISSUE 4 (EFFECTS OF BCUC SAFETY REGULATION ON REGULATORY BURDEN)**

BC Hydro respectfully submits that Sub Issue 4 and the proposed questions under it are directly related and, in some cases, duplicative of the questions proposed under Sub Issue 1 (Keeping Informed). For example, the effect of BCUC safety regulation on the regulatory burden faced by public utilities is related to the BCUC's consideration about the nature and extent of public utility reporting on certain safety information. Accordingly, and for the same reasons discussed above for Sub Issue 1, the effect of BCUC safety regulation on regulatory burden is more appropriately considered in Stage 2 of the Inquiry, if and as necessary.

For further information, please contact the undersigned.

Yours sincerely,



Fred James  
Chief Regulatory Officer

fj/tl

Enclosure

## **BCUC Inquiry into the Regulation of Safety**

---

---

### **Appendix A**

#### **BC HYDRO COMMENTS ON SUB ISSUES**

---

## List of Tables

---

Table A-1	BC HYDRO COMMENTS ON SUB ISSUES.....	1
-----------	--------------------------------------	---

**Table A-1 BC HYDRO COMMENTS ON SUB ISSUES**

SUB ISSUE	Rationale
<b>Sub Issue 1 – Keeping Informed</b>	
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?	For the reasons discussed in the body of this submission, BC Hydro respectfully submits that Sub Issue 1 should be removed from the Proposed Stage 1 Sub Issues.
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?	

SUB ISSUE	Rationale
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?	
<b>Sub Issue 2 – Scope of the BCUC’s Safety Mandate</b>	
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?	BC Hydro submits that this question is appropriate to be considered in Stage 1 as it relates to asset safety and public safety. However, and as outlined in BC Hydro’s November 12, 2020 submission, the BCUC has no jurisdiction to regulate or set standards for worker safety, including for contractors and their workers, because the UCA does not provide the BCUC such jurisdiction. The only cases in which the BCUC may consider worker safety is when considering the prudence of costs incurred regarding worker safety matters in an RRA, expenditure schedule application or CPCN application. Accordingly, BC Hydro respectfully submits that the first

SUB ISSUE	Rationale
	question be revised to remove reference to worker safety.
2. Should the safety of the environment be more explicitly considered?	BC Hydro is unsure what “safety of the environment” encompasses, but, regardless, the BCUC has no jurisdiction to regulate or set standards for the environment, because the UCA does not provide the BCUC such jurisdiction. Accordingly, BC Hydro respectfully submits that this question be removed.
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?	BC Hydro submits that the first part of this question is appropriate to be considered in Stage 1. However, the examples contained in the second part of this question should be removed, because, in BC Hydro’s view, “customer safety” is synonymous with “public safety” and “the safety of the energy supply” is synonymous with “asset safety”. If there are distinctions between those terms, they are not immediately apparent to BC Hydro.
<b>Sub Issue 3 – Safety in BCUC Adjudications</b>	
1. How should public utility safety be considered in expenditure schedule applications before the BCUC?	For the reasons discussed in the body of this submission, BC Hydro respectfully submits that Sub Issue 3 should be removed from the Proposed Stage 1 Sub Issues and the BCUC should continue to address public utility safety matters in applications before it on a case-by-case basis, as required. Alternatively, Sub Issue 3 may be considered in Stage 2 of the Inquiry, if and as necessary.
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	

SUB ISSUE	Rationale
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?	
<b>Sub Issue 4 – Effects of BCUC Safety Regulation on Regulatory Burden</b>	
1. How would incorporating safety into the BCUC's reporting requirements impact the regulatory burden placed on public utilities?	For the reasons discussed in the body of this submission, BC Hydro respectfully submits that Sub Issue 4 should be removed from the Proposed Stage 1 Sub Issues.
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	

SUB ISSUE	Rationale
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?	
<b>Sub Issue 5 – Regulatory Gaps</b>	
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?	BC Hydro submits that the questions under this Sub Issue are appropriate for inclusion in Stage 1 of this Inquiry.
a. If not, why not?	
b. If not, who is responsible for providing safety oversight in these instances?	
<b>Sub Issue 6 – Regulatory Overlaps</b>	
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?	BC Hydro submits that this question is appropriate for inclusion in Stage 1 of this Inquiry.
a. If yes, what specific provisions of the UCA allow for such forbearance? Should the BCUC consider exemptions in certain circumstances?	BC Hydro submits that this question is appropriate for inclusion in Stage 1 of this Inquiry.

SUB ISSUE	Rationale
<p>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?</p>	<p>BC Hydro respectfully submits that this question should be removed for the same reasons that Sub Issue 1 (Keeping Informed) and the questions under it should be removed. The question will necessarily be informed by the BCUC's consideration of and principles developed with respect to the BCUC's treatment of issues of concurrent jurisdiction. Specifically, the question concerns the reporting of certain safety information to the BCUC where issues of concurrent jurisdiction are present. These are matters that are more appropriately considered in Stage 2 of the Inquiry, if and as necessary.</p>
<p>c. If not, how should the BCUC work with other agencies with overlapping jurisdiction? For example, are formalized working relationship required?</p>	<p>BC Hydro respectfully submits that this question should be removed for the same reasons that Sub Issue 1 (Keeping Informed) and the questions under it should be removed. The question will necessarily be informed by the BCUC's consideration of and principles developed with respect to the BCUC's treatment of issues of concurrent jurisdiction. Specifically, the question concerns the BCUC's application of the Safety Regulation Framework and how the BCUC will implement its mandate with regards to safety where issues of concurrent jurisdiction are present. These are matters that are more appropriately considered in Stage 2 of the Inquiry, if and as necessary.</p>
<p>d. If not, how can the BCUC ensure regulatory efficiency whilst also ensuring it keeps itself informed?</p>	<p>BC Hydro respectfully submits that this question should be removed for the same reasons that Sub Issue 1 (Keeping Informed) and the questions under it should be removed. The question will necessarily be informed by the BCUC's consideration of and principles developed with respect to the BCUC's treatment of issues of concurrent jurisdiction. Specifically, the question concerns the BCUC's application of the Safety Regulation Framework and how the BCUC will implement its mandate with regards to safety where issues of concurrent jurisdiction are present. These are matters that are more appropriately considered in Stage 2 of the Inquiry, if and as necessary.</p>
<p>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?</p>	<p>BC Hydro respectfully submits that this question should be removed for the same reasons that Sub Issue 1 (Keeping Informed) and the questions under it should be removed. The question will necessarily be informed by the BCUC's consideration of and principles developed with respect to the BCUC's treatment of issues of concurrent jurisdiction. Specifically, the question concerns the nature and extent of reporting on certain safety information to the BCUC where issues of concurrent jurisdiction are present. These are matters</p>

SUB ISSUE	Rationale
	that are more appropriately considered in Stage 2 of the Inquiry, if and as necessary.
3. Should the BCUC be notified of safety violations that occur under the jurisdiction of other regulatory bodies?	BC Hydro respectfully submits that this question should be removed for the same reasons that Sub Issue 1 (Keeping Informed) and the questions under it should be removed. The question will necessarily be informed by the BCUC's consideration of and principles developed with respect to the BCUC's treatment of issues of concurrent jurisdiction. Specifically, the question concerns the nature and extent of reporting on certain safety information to the BCUC where issues of concurrent jurisdiction are present. These are matters that are more appropriately considered in Stage 2 of the Inquiry, if and as necessary.
4. Should the BCUC assess or ensure that public utilities comply with safety regulations that are under the jurisdiction of another regulatory body?	<p>It is not clear to BC Hydro whether, in this scenario, the BCUC has concurrent jurisdiction over the safety matter at issue.</p> <p>If it does not have concurrent jurisdiction, then the BCUC clearly could not assess or ensure that public utilities comply with safety regulations that are under the jurisdiction of another regulatory body, so this question should be removed.</p> <p>If the BCUC does have concurrent jurisdiction, then BC Hydro submits that this question should be removed for the same reasons that Sub Issue 1 (Keeping Informed) and the questions under it should be removed. The question will necessarily be informed by the BCUC's consideration of and principles developed with respect to the BCUC's treatment of issues of concurrent jurisdiction. As such, it is premature and is more appropriately considered in Stage 2 of the Inquiry, if and as required.</p>
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?	<p>It is not clear to BC Hydro whether, in this scenario, the BCUC has concurrent jurisdiction over the safety matter at issue.</p> <p>If it does not have concurrent jurisdiction, then the BCUC would clearly have no responsibility and/or authority to take action, so this question should be removed.</p> <p>If the BCUC does have concurrent jurisdiction, then BC Hydro submits that this question should be removed for the same reasons that Sub Issue 1 (Keeping Informed) and the questions under it should be removed. The question will necessarily be informed by the BCUC's consideration of and principles developed with respect to the BCUC's treatment of issues of concurrent jurisdiction. As such, it is premature and is more</p>

---

SUB ISSUE	Rationale
	appropriately considered in Stage 2 of the Inquiry, if and as required.