

**British Columbia Utilities Commission – Inquiry into
the Regulation of Safety – Project No. 1599100 –**

Proposed Stage 1 Sub Issues

Intervener Written Comments

by
Donald Flintoff,

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Chapter 1.

Introduction

By Order G-34-21, dated January 29, 2021, the British Columbia Utilities Commission (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 of Exhibit A-7. Intervener comments on the Proposed Stage 1 Sub Issues are to be filed with the BCUC by Thursday, April 29, 2021.

In accordance with Order G-34-21 the 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.

Chapter 2.

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 interveners 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?

The minimum requirements the BCUC must have in safety policies, procedures, guidelines and memorandum of understandings (MOUs) with other stakeholders in place to ensure it is informed of matters relating to a public utility.

2 How should the BCUC keep itself informed of matters relating to public utility safety?

The BCUC safety procedures should identify the reporting procedures. All safety matter reporting should be sent in writing directly to the Commission Secretary. A serious event can be reported by a telephone call to the appropriate contact at BCUC in advance of the report being provided.

The BCUC could recommend that a BC Safety Committee be established that consists of stakeholders and public utilities that meet regularly to decide the level of importance of various events that should move forward for further review.

3 Should public utilities provide regular reporting to the BCUC on safety-related matters? If yes, on what frequency?

A serious event should be reported immediately. An annual reporting system should be adequate for general event reporting. A guideline for distinguishing the level of seriousness of events must be established.

4 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?

Yes. An emergency or serious incident reporting system that immediately informs the BCUC should be provided by the public utilities. Verbal notification should be provided immediately upon the event. Email notification should be provided within 24 hours of the event that includes identification and contact information for the responsible parties. A schedule for the investigation and report should be provided within 7 days.

5 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?

Verbal notification should be provided immediately upon the event. Email notification should be provided within 24 hours of the event that includes identification and contact information for the responsible parties. A schedule for the investigation and report should be provided within 7 days.

6 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?

Yes, the public utilities should notify the BCUC by email/letter within 7 days of having received a safety-related administrative penalty, or having had a work site shut down.

7 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?

Yes, the BCUC should rely on other agencies having jurisdiction over public utility safety to keep the BCUC informed on matters related to their jurisdiction. The BCUC should formalize the receipt of such information from the other agencies through a Memorandum of Understanding with these other agencies.

8 Should the BCUC rely on complaints to keep itself informed about public utility safety matters?

Yes, the BCUC should continue to rely on the current complaint process to keep itself informed. Further, the BCUC should proactively enquire about unreported incidents it discovers in the media.

9 Should the BCUC rely on BCUC-generated questions to public utilities, such as compliance letters, to keep itself informed about public utility safety matters?

Yes, the BCUC should rely on BCUC-generated questions to public utilities, such as compliance letters, to keep itself informed about public utility safety matters

10 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?

The BCUC should have a staff member appointed as a supervisor for carrying out measures for... the safety of the public and the users of the utility’s service. The supervisor can advise the BCUC on the need to appoint an inspector (contractor/staff) 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.” The BCUC should not rely on appointing inspectors and/or supervisors to keep itself informed about public utility safety matters but rather the BCUC should develop the policies, procedures, guidelines and MOUs necessary for the public utilities to inform the “safety supervisor”.

11 Are there any instances where the BCUC should not be informed of safety-related items? If yes, what specific scenarios and why?

No. Only the BCUC should determine what it should not be informed of when it deals with safety-related items when considered regulated jurisdiction and equipment.

12 Should the BCUC require public utilities to include certain safety-related information in their annual reports to the BCUC?

Yes. I believe that certain safety-related information is already provided.

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?

The safety-related information about public utility installations and operations should include but not be limited to safety-related expenditures; safety metrics; reliability metrics; incident reporting; leading indicators; safety violations; and/or administrative penalties.

2.1. Technical Safety BC

Certain information about public utility installations and operations may be available from Technical Safety BC (i.e. Smart Meter Fire Report) that may be of interest to BCUC. Electrical, natural gas, propane and liquid petroleum gas (LPG) pipeline systems including leak information may be of interest to BCUC at or near a jurisdictional interface that may be involved in a major event.

2.1.1. Electric, Gas and Propane Safety

The current process by Technical Safety BC provides the following:

- Citations
- Inspections
- Incident Reports and Investigations
- Utility Violation Investigations
- Customer Safety Complaints
- Inspection Notices / Notice of Probable Violation Letters
- Safety and Reliability: Proceedings
- Other Technical SafetyBC Activities

The BCUC should have access to the above so that it can stay informed of issues it may have an interest in.

2.1.2. BC Public Safety and Emergency Services

Public safety and emergency services may require a public safety power shut off in the event of a tsunami, flood or wildfire. These shutoffs may require activations, de-energizations & post-event reports.

2.1.3. WorkSafeBC

WorkSafeBC generally looks after the personal safety of workers in BC. WorkSafeBC can investigate workplace incidents that resulted in a death or an injury or had the potential to cause serious injury. The findings of WorkSafeBC investigations are identified in incident investigation reports. Health and safety violations may receive administrative penalties — monetary fines and are published. WorkSafeBC can seek injunctions which are court orders from the Supreme Court of B.C. that require a person or business to comply with the Workers Compensation Act, occupational health and safety requirements, or a WorkSafeBC order.

2.1.4. Environment and Natural Resources Canada

Environment and Natural Resources Canada addresses issues involving agriculture, wildlife, energy, natural resources, pollution, environmental protection and fishing. Examples are PCBs and hydraulic oil spills, and maybe SF₆ gas leakage used in some public utility equipment.

Chapter 3.

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?

Yes, the categories of asset safety, worker safety, and public safety encompass the BCUC’s mandate for public utility safety but should not be limited by these categories as environmental issues should be considered as well.

2 Should the safety of the environment be more explicitly considered?

Yes, the safety of the environment should be more explicitly considered in conjunction with Environment Canada personnel.

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?

Other categories of safety are catastrophes, disasters, severe weather events, etc. such as wildfires, floods, landslides, severe windstorms, etc.

The BCUC must consider customer safety taking into account that issues downstream of the customer's meter may be under the jurisdiction of others while the safety of energy supply to the customer's meter is their direct responsibility.

Chapter 4.

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?

Yes, a standardized approach such as “As Low as Reasonably Practicable” or ALARP derived from ISO 31000, Risk management – Guidelines, could provide principles, a framework and a process for managing risk. ISO 31000 can increase the likelihood of achieving objectives improve the identification of opportunities and threats and effectively allocate and use resources for risk treatment. However, a unique approach for evaluating safety risks across utilities will exist because of size, and service variations will need to be considered.

b. Should minimizing worker, asset, and/or public safety risks be a criterion in the BCUC’s determination of the public interest?

Yes but the “As Low as Reasonably Practicable” or ALARP principle should apply. This should be a first step in moving forward with this inquiry by having the inquiry establish what is the ALARP principle to be applied in BC by the level of risk, impact, and size of utility.

2. How should public utility safety be considered in RRAs before the BCUC?

a. Should safety be considered in all RRAs?

Yes.

b. Should public utilities be required to separately identify safety-related expenditures?

Yes

c. Should public utilities be required to identify any safety-related administrative penalties?

Yes, and the penalty amounts should be disclosed. WorkSafeBC publishes summaries of their penalties in their WorkSafe Magazine. Technical Safety BC makes its incident investigation summaries available to the public. Complete transparency should apply to all public utilities.

d. How should the BCUC review safety-related expenditures and what level of information should be required?

BCUC should review safety-related expenditures and the public utilities should provide the need, amount and the goal sought including data to support the expenditures by demonstrating the increase in safety.

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?

Yes, the reasonableness and appropriateness of a public utility's safety-related expenditures should 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?

If safety is included in the RRA/PBRs then it should not be necessary to include safety in Long Term Resource Plans.

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?

No, the public interest should be dealt with when setting rates in the RRA/PBR.

4. How should public utility safety be considered in CPCN applications?

a. Should safety be considered in all CPCN applications?

No, as the safety risks may not yet be identifiable. However, if there are some safety concerns or questions raised in information requests then those can be considered by the Panel.

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?

No, as the safety risks may not yet be identifiable. However separate guidelines should be developed for a standardized approach for evaluating safety risks across all public utilities.

c. Should minimizing worker, asset, and/or public safety risks be a criterion in the BCUC's determination of the public interest?

Minimizing worker, asset, and/or public safety risks are the responsibility of the public utility, and BCUC determination of a CPCN being in the public interest should not be based on safety risks that cannot yet be identified. However, public safety risks related to reliability of service should be considered (i.e. hospitals and other services to be available during emergencies).

5. How should safety be considered in any other applications that the BCUC may receive?

Safety should be considered in RRA/PBRs, prudency reviews, and any inquiry into a specific event such as the 2009 Downtown Power Outage.

Chapter 5.

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?

Incorporating safety into the BCUC's reporting requirements will marginally increase the impact of the regulatory burden and costs placed on public utilities. The reporting requirements must be tailored by the type of utility being regulated.

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?

Consolidating the current safety and compliance reporting requirements into concise and clear reporting requirements should minimize the associated cost and/or administrative burden.

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?

BCUC should consider the cost/benefit and need for the additional safety reporting requirement for public utilities. The reporting requirements should be tailored to risks, probability, vulnerability and consequence and impact to the public being served.

3. How would incorporating safety into BCUC adjudications impact the regulatory burden placed on public utilities?

Yes, incorporating safety into BCUC adjudications would impact the regulatory burden placed on public utilities. The BCUC must consider the impact on rates in concert with the need for safety.

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?

Yes, using the RRA proceedings will allow the other regulatory bodies to submit their information. At this time, all interveners, utilities and other stakeholders will be informed of any issues.

4. Does the size of a public utility have any bearing on how the BCUC should regulate safety?

No. Safety should be based on operation procedures, equipment safety and worker safety training.

a. If yes, how?

N/A

Chapter 6.

6.0 SUB ISSUE 5 – REGULATORY GAPS

Intervenors 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 intervenors 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?

No, not necessarily. If a legal purposeful exemption is granted from other safety-related legislation such as the Safety Standards Act section 2(2), the Commission may be able to invoke section 23 of the UCA. Another legal purposeful exemption exists in Safety Standards Act, Electrical Safety Regulation, section 3.

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

The UCA section 23 states: The commission has general supervision of all public utilities and may make orders about other matters it considers necessary or advisable for the safety, convenience or service of the public.

Chapter 7.

7.0 SUB ISSUE 6 – REGULATORY OVERLAPS

Intervenors 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 intervenors 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?

No, UCA section 23 still applies.

a. If yes, what specific provisions of the UCA allow for such forbearance? Should the BCUC consider exemptions in certain circumstances?

Exemptions should not be considered for safety matters unless the Commission considers it necessary or advisable for the safety, convenience or service of the public, the Commission does not have to make an order.

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?

The BCUC should continue to receive any safety-related reporting from the other regulatory body or the public utilities. Only, the BCUC decides if forbearance is applicable.

c. If not, how should the BCUC work with other agencies with overlapping jurisdiction? For example, are formalized working relationships required?

Yes, formalized working relationships in the form of a Memorandum of Understandings are required with other agencies having overlapping jurisdiction.

d. If not, how can the BCUC ensure regulatory efficiency whilst also ensuring it keeps itself informed?

As safety events can lead to lengthy investigations and the Commission has no control over the occurrence of an event or its nature (i.e. dam failures), the Commission cannot ensure regulatory efficiency. However, annual reporting and reviews may provide preemptive opportunities for regulatory efficiency.

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?

A reasonable level of information to be provided to the BCUC regarding public utility compliance with safety matters overseen by another regulatory body would be all information affecting public and customer safety over which the other regulatory body also has jurisdiction. This level of information should be formalized in an MoU with the other regulatory body.

3 Should the BCUC be notified of safety violations that occur under the jurisdiction of other regulatory bodies?

Yes, the BCUC should be notified of mutually agreed 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?

Yes, the commission has general supervision of all public utilities.

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?

The UCA section 23 states: The commission has general supervision of all public utilities and may make orders about other matters it considers necessary or advisable for the safety, convenience or service of the public. The Commission must consider actions that are necessary or advisable for the safety, convenience or service of the public before it may make an order.