

BRITISH COLUMBIA UTILITIES COMMISSION
IN THE MATTER OF THE UTILITIES COMMISSION ACT
R.S.B.C. 1996, CHAPTER 473

And

British Columbia Utilities Commission
Indigenous Utilities Regulation Inquiry

PRINCE GEORGE, B.C.
June 27, 2019

Community Input Session

BEFORE:

D.M. Morton,	Chairman/Panel Chair
C.M. Brewer,	Commissioner
A. Fung Q.C.,	Commissioner
B. Lockhart,	Commissioner

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(PROCEEDINGS COMMENCED AT 10:19 A.M.)

(INTRODUCTIONS)

MR. GEORGE: So we have Mr. Tim Thompson who is registered to speak here today. Yes sir, I'd like to call you up to the centre table here. Please speak into the microphone, introduce yourself and spell your last name for the record.

MR. THOMPSON: Just give me one second while I get your slides up. Hey, Chairman Morton.

THE CHAIRPERSON: Good to see you again.

MR. THOMPSON: Good to see you as well. I thought I was speaking last.

THE CHAIRPERSON: You are.

PRESENTATION BY MR. THOMPSON:

MR. THOMPSON: So, okay. Even I can figure that out, thanks.

So first I'd like to thank Elder Stuart for a kind introduction and the Lheidli T'enneh for allowing us here on their traditional land.

So, I'll start over. Thank you very much to Elder Stuart for a kind prayer and introduction. And for the welcome of the Lheidli T'enneh to allow us to allow us in the First Nation lands. I know if the Kitselas First Nation were here --

1 [DISCUSSION OFF THE RECORD]

2 MR. THOMPSON: Well, thanks again to Elder Stuart for
3 her prayed and kind welcome today, and to the Lheidli
4 T'enneh for allowing us to be here on their
5 traditional territories. And I know if the Kitselas
6 First Nation were here, they would recognize the same.

7 Chairman Morton and esteemed Commissioners,
8 my team has once again prepared a script which I've
9 got to try to both follow and ignore at the same time.
10 But thank you again for your kind opportunity to
11 reappear before this panel.

12 And we did do what we said we would do.
13 Which was, we wanted to hear from the panel, and we
14 wanted to hear from more people testifying. Because
15 it really has clarified for us, I think, some of the
16 issues. But I'm immediately leaving the script, and I
17 want to say two things. One, tone. The script, when
18 I read it, feels like email. And it doesn't
19 communicate, I think, the kind of relationship that we
20 would like to enjoy with the Utilities Commission. To
21 me this is an important point.

22 And you've been to many of these meetings,
23 but Elder McDames from the Kitselas I think captured
24 it well when we spoke about, "Come to the treaty
25 table, you'll find it welcoming." And the Kitselas
26 are kind of a ground that kind of mean that, in funny

1 way. They'll be at cross purposes and you'll have
2 points that you will not agree on, but you'll still
3 have a laugh. And you'll work it out.

4 This just reads way too dry for me. So I,
5 you know, please, you're going to have to give me some
6 generosity. I'm not foreshadowing, there's nothing
7 dangerous in here, I don't think.

8 And the second thing is that we're not
9 lawyers, let alone regulatory lawyers. There's no one
10 on our staff. The closest person to it's my dad. And
11 I've had to reach out to him for help. But we may not
12 be entirely gauging your mandate as seen from a
13 technical point of view. But we strongly believe that
14 you have the ability to make recommendations beyond
15 the technical mandate. Because you have, you know, in
16 some way you could self-define your own remit.

17 And I kind of think that's weaved its way
18 in here through what I hope to present. So, you know,
19 if we feel like I'm swimming upstream for a while,
20 bear with me, I hope to get to the point.

21 So, with that, we'd like to amplify our
22 comments around really three themes. One is our
23 purpose for being here. You know, why are we an
24 intervener and why are we here? I re-read what I said
25 earlier and I think it needs some expansion.

26 Two, we really want to explore the topic of

1 market access for Indigenous utilities. And the third
2 is, we actually want to do an example, sort of a case
3 in point. So we call it a geothermal case in point.

4 So with that being said, I'll just dive
5 right into the first one. Oh, did I do -- my name is
6 Tim Thompson, spelled T-H-O-M-P-S-O-N. Sorry, I'm a
7 director with Kitselas Geothermal Inc. And I'm here
8 representing their interests, and we call it KGI.

9 So KGI is a joint venture between the
10 Kitselas Development Corporation and Borealis
11 Geopower. We've been in existence in one form or
12 another for the last five years. KGI is currently
13 delineating geothermal and other subsurface features
14 just south of Terrace, B.C. And by that, I didn't
15 expand on this before, to be specific we are likely to
16 have a commissioned heat facility in the next 18
17 months, right? Which means right now, I was at --
18 yesterday in Vancouver, we're raising capital. I
19 mean, given construction timelines, procurement
20 timelines, you know, we're in the midst of closing
21 commercial agreements.

22 So the emergence of this panel, at least in
23 my mind, calls forth that Chinese ideogram of crisis.
24 Which could either be good or bad depending on how you
25 read it. And it has created some uncertainty for us.
26 So we're here before you multiple times because for

1 this, this is urgent. I mean, we're trying to talk
2 with bankers and equity investors and the question is,
3 "Well, what are the rules that are going to govern
4 your conduct? What price can charge?"

5 And to be honest, we don't know now. We
6 have a read of the previous legislation, but it could
7 change. We put our faith strongly in you that we
8 don't think it's going to get any worse. So I think
9 we've got a base case. But there may be some upside,
10 and that's kind of how we see it. That's why you
11 might see us multiple times. Because for us, this is
12 sort of an urgent moment.

13 Again, for the record, we're in and around
14 Terrace with this heat project. The town of Terrace
15 is about 12,000 people. And if you roll up sort of
16 the adjacent regions it's about 15,000.

17 You know, framing the situation, the
18 current energy requirement for Terrace is roughly one
19 petajoule. And that breaks down, 40 percent
20 electricity, 55 percent natural gas and the last five
21 percent is a split between wood, propane, heating oil
22 and other, depending upon what people might be
23 burning.

24 It has a set of current utility energy
25 providers. Notably, BC Hydro for electricity and
26 Pacific Northern Gas for natural gas. Both of which

1 are entities who's rates are set by yourselves.

2 Now, as most are aware, there's a bit of a
3 gold rush going on in Terrace and there are plans to
4 greatly expand, right? And so goes the energy demand.
5 And there's a large industrial park, called the Skeena
6 Industrial Park, that's contemplated and is under
7 construction. It's almost completed so far as the
8 site has been prepared.

9 And when you look at that and start
10 computing its incremental demand, the energy demand
11 for that park is going to over 4 petajoules, when you
12 sort of round up the numbers. So this would be a
13 four-fold increase in local energy consumption. To a
14 total, maybe five petajoules per year.

15 Now, the incumbent utilities are intended
16 to serve this park in some part. And they both, you
17 know, there are electrical corridors and natural gas
18 corridors have been installed. However, KGI, who is
19 an equity owner -- or sorry, the Kitselas Development
20 Corporation also is an owner in the park. And there's
21 an intent for KGI to also sell heat and/or electricity
22 into this sort of growing opportunity, if you will.
23 And it really depends at some level how our resource
24 proves out, what we're going to be able to sell.
25 We're hopefully going to confirm that, maybe in the
26 next 60 days. But at a minimum we'll be selling heat.

1 Now, it would ostensibly be that the
2 customers for this energy would include a number of
3 Kitselas affiliated companies that are going to be in
4 the park and some of their assets. There's some
5 people that are already there, notably the airport,
6 right? And Chevron has a number of facilities. But
7 also, the future customers who are about to sort of
8 site up. Most of them serving in some shape or form
9 the construction and operation of the LNG Canada
10 facility down in Kitimat.

11 Now, it's also mooted in our view that our
12 energy offering would be complementary to what's being
13 offered now. It's not truly competitive in some ways,
14 right? There's some things that our heat can't do.
15 So there will always be a need for natural gas. But
16 there's some things our heat can do and if we're price
17 competitive it creates a circumstance where what's
18 good for that customer is something that we're going
19 to address under access, but may not work from a
20 regulatory point of view. And so I just want to give
21 you the frame and the intent.

22 On top of that, we intend to both operate
23 and sell on and off what are traditional lands and
24 which – and I don't have the right words for this, I'm
25 not a land man or land person – the First Nation
26 either currently claims, has some kind of reserve

1 and/or in a future post-treaty will have an interest.

2 And here, here I think that we've got a
3 definitional problem. And I don't know if Elder
4 McDames -- I thought in his testimony -- it's in
5 pages, you know, 210 to 211, you know, he sort of
6 highlighted the idea that they're currently in treaty
7 negotiations, the Kitselas, who owned the Kitselas
8 Development Corporation, you know, our partner.

9 And they're fairly down the road on these
10 things, at least that's my view. I mean they feel
11 that this stuff is pending. But they don't want to be
12 in a position where they received -- and say, let's
13 say fee simple versus being classified as a reserve
14 and because of that land definition sort of fall in or
15 out of the net that we're trying to, you know, put
16 around what is or is not an Indigenous utility. So I
17 just wanted to highlight that there may be this weird
18 definitional thing going on and hence his invitation
19 to come on down, right?

20 You know, it will likely be the case that
21 any heat sale will require the construction of a heat
22 distribution pipeline network, the owner of which
23 would likely be the First Nation or other some related
24 entity. And electricity sales will require an
25 interconnection to an electricity system. Now,
26 whether this is the current distribution system,

1 whether it's just distribution, distribution and
2 transmission, there's a lot of options there, and/or
3 other options whereby you blend existing with new. So
4 there's a little matrix of possibilities and I'm not
5 sure they're exclusive. So I just want to sort of
6 describe -- it's a tiny little project, but a holy,
7 thorny thicket of problems, right?

8 THE CHAIRPERSON: How close is the geothermal facility
9 to the industrial park?

10 MR. THOMPSON: I don't want to tell you because of land
11 rights, but let's say it's within three kilometres.
12 So it's quite close.

13 THE CHAIRPERSON: Okay. Right. So the proposal would
14 be to lay piping from the plant to the industrial park
15 to provide hot water heat or steam heat, and then that
16 would come off combined a heat and power, the
17 geothermal facility would be -- just so I understand
18 the project, is that what you're talking about?

19 MR. THOMPSON: Well, yes and no. If you leap directly
20 to a power station first -- you know, the best
21 efficiency on a geothermal power station is something
22 like 14 percent. So there's a lot of waste heat that
23 you cast off, in which case you would take that waste
24 heat and use it productively.

25 THE CHAIRPERSON: And that would go to the park for --

26 MR. THOMPSON: And that would got to the park.

1 However, from a development philosophy point of view,
2 power stations require very high temperature
3 resources. So the probability that you're going to
4 see that relatively speaking, ignoring our context, is
5 low when you look at sort of land globally, right?
6 How many really true hot spots are there?

7 Whereas if you just search for heat first,
8 then my requirement to find a resource, instead of 150
9 C might be 160 C. Much greater probability, much
10 simpler to access. And from a subsurface point of
11 view, by running a heat facility I can better
12 understand the reservoir and better inform the
13 decision as to whether I should then develop. So as
14 opposed to swinging for the fence, there is some value
15 is risk mitigating through incrementalism. So --

16 THE CHAIRPERSON: Okay. And that's a proposal here?

17 MR. THOMPSON: I think that we'd be going heat first.

18 THE CHAIRPERSON: Yeah, okay.

19 MR. THOMPSON: And then subject to, you know, what we
20 prove to be there.

21 THE CHAIRPERSON: Then there may be electricity
22 potential later?

23 MR. THOMPSON: Yeah.

24 THE CHAIRPERSON: Okay.

25 MR. THOMPSON: We believe that's the case, but I think
26 prudence --

1 THE CHAIRPERSON: Yeah, thank you.

2 MR. THOMPSON: Yeah, okay. So all that being said, you
3 know, I'd like to speak maybe -- that's a bit about
4 what we're proposing. I'd like to talk about
5 geothermal energy and, again, I don't know what's been
6 brought before you as a regulator. And it's my view
7 that we need to establish some basic things, you know,
8 because I don't know if it's on the record. It's
9 safe, and I think that's an important point for the
10 regulator.

11 The U.S. Bureau of Labor tracks geothermal
12 safety incidents, or at least they have done since
13 1994. And since 1994 there've only been five lost
14 time incidents, and there's been no fatalities. And
15 given the fairly large geothermal installations
16 broadly speaking in the United States that exist, we
17 would suggest that this is an incredibly safe
18 business. But I don't want that to sort of just be
19 assumed. You can independently verify the safety
20 statistics of these kind of operations.

21 The second thing is that they're reliable.
22 And there's a very marked difference between an engine
23 that must manage combustion and an engine that's
24 basically a pump. And that technical difference means
25 that geothermal unit availability is routinely above
26 99 percent. So it's the most available form of

1 energy, more so than coal, more so than natural gas
2 combustion. We just don't see the same kind of
3 maintenance downtime that you do. So that I think
4 there's a certain reliability point that we want to
5 make.

6 And this sort of came up when we talked
7 about, you know, we're not contesting customer
8 service, we're not contesting safety, but to me,
9 again, you can independently -- there's the IGA in the
10 United States, there's a number of independent bodies
11 you can reach to to verify these numbers.

12 It's green, and to me, at least certainly
13 in the power business, this is a requirement to get
14 into it. You know, you've got the *Clean Air Act* that
15 says if you're not green, barring an exemption you
16 don't get to play.. There's no combustion, so we
17 don't have emissions outside of those related to the
18 construction of the facility and the materials used in
19 the facility.

20 So let's say lifecycle at zero, but in
21 terms of operations there's no emissions there. And
22 my team has asked me to call out -- there's two slides
23 here, very sort of fancy graphics, which you can see
24 and oddly I can't. And really I'm just trying to give
25 you a sense of the materiality. If we serve only four
26 percent of that heat park in phase 1 that's proposed

1 in Skeena we save 16,000 tonnes a year, right? And
2 these are long, long term utilities, basic energy
3 infrastructure. It's not unreasonable 30, 40, 50
4 years to start talking timelines like that. Which is
5 why it's important for you to consider them, because
6 once they're in place, right, they're not going away,
7 so that the full lifetime impact could be quite
8 significant.

9 The other aside is that you don't get a
10 prize making green energy from an offset point of view
11 for electricity in B.C. It's effectively green. But
12 decarbonizing your heat market is something different,
13 but, again, it needs to be baseload, right? No one's
14 interesting in intermittent decarbon- -- well, I
15 wouldn't suggest -- well, our view is that it's got
16 limited interest for intermittent decarbonization.
17 But if we did the whole park, right? And, again, it's
18 four petajoules, so there's some -- and it's all
19 natural gas unless otherwise served. We're looking at
20 -- you know, we start talking about megatonnes and it
21 really starts to get interesting. So to me I want to
22 wrap in the idea is that it's safe, it's reliable, it
23 has benefits I think vis-à-vis its context and how it
24 tends to sort of come about.

25 The next point I want to talk about is
26 renewable. The earth is governed by physics, an old

1 pastime of mine. But essentially the earth emits
2 energy in sort of watts per metre squared coming from
3 the centre of the earth. All you do with your
4 geothermal systems is you design them to not exceed
5 that, and, therefore, as long as the earth is emitting
6 energy the system will renew itself, so we're not
7 actually mining something, right? So well managed,
8 these things are renewable on a geologic time scale.

9 And then cost. You know, unfortunately
10 geothermal is not everywhere. But where it is it's
11 typically the lowest cost option and sometimes by some
12 distance, right? It's just a happenstance of luck
13 that Terrace is, you know, is near this graben that's
14 just south of it that has this wonderful opportunity.
15 But this is important when I get into sort of, you
16 know, thinking about cost of service.

17 THE CHAIRPERSON: Absolutely.

18 MR. THOMPSON: Right? You know, how do we mix in some
19 of these serendipitous low cost options within the
20 broader cost of service discussion, because there's a
21 difference between customer savings and ratepayer
22 savings.

23 So, you know, to sum all that up this is
24 why we're here, right? We're -- KGI is majority owned
25 by a First Nation. It's working on building
26 geothermal assets. We're located in what is or may be

1 defined as an Indigenous community depending on how
2 things play out and your own definition. And we're
3 for sure generating heat, but we also might be
4 generating electricity at the same time, so we think
5 we're well caught in the net, right?

6 Now here it comes, right? So the
7 interesting thing for us is, what is a Crown? Like
8 Crown entity? Right? To me if that's a government
9 owned utility, then I think this is an issue that may
10 come before you in very short order because it may be
11 the case that the Kitselas own fee simple land only
12 utility and I struggle on some levels to find how it's
13 differentiated from other Crown utilities. And as a
14 result there may be an expectation which, you know, we
15 believe might be reasonable that the BCUC would
16 consider considering Indigenous utilities equivalent
17 to a Crown, which I don't think is sort of on the
18 books. But, you see where we're headed.

19 I think this is -- you know, all else being
20 equal, there is some element of parity, or equivalence
21 that has to be in play. Now, there are obvious
22 elements of this that are different, right? So when
23 we look at, for instance, maturity. We don't have a
24 market yet, right? We would be first. And I'm hoping
25 people will pilot behind us. But there is not even a
26 first instance yet. So, you know, there is the

1 exemptions for geothermal electricity production
2 within the Act, I think that recognizes that until we
3 get there, we're exempt. But I think you'll find that
4 the at least the KDC may be pushing for the idea that
5 as these Indigenous utilities progress, there is an
6 eye with self-determination that is set in this --
7 principle of the B.C. Government that they would be
8 treated in a like manner to a Crown, which would then
9 sort of change the mix a little.

10 So then the second thing is, that within
11 this context I don't know that there has been a lot of
12 discussion about what a geothermal heat utility looks
13 like. I believe there hasn't been. But it's not
14 exempt under the Act, and we believe it's in the same
15 nascent state of power. And to some degree, it's
16 geothermal energy, it's not -- you know, the term
17 "heat energy" is a misnomer. Energy is energy, and it
18 can come in many forms. So, that electricity would be
19 given exemption but a heat not, is something that we
20 would try to argue that maybe the exemption, or we
21 would wish the exemption or you to consider extending
22 it to the broader set of geothermal energy context.

23 THE CHAIRPERSON: Mr. Thompson, that is very
24 interesting, and I agree with your considerations
25 about whether heat should be considered to be like
26 electricity. I would just like to point out, though,

1 that while there are not -- to my knowledge there are
2 no geothermal -- using the term "geothermal" heat
3 delivery systems even existent in the province let
4 alone that we regulate, but there are what we call
5 "ground source heat systems," and quite a number of
6 them that we do regulate. And they are fairly common
7 in the larger cities.

8 And basically what it does is it uses lower
9 temperature water, which isn't considered geothermal
10 energy, but nevertheless, it utilizes the heat
11 gradient, the gradient in heat of water below the
12 surface, and then uses heat pumps to increase the
13 temperature of that water to a useable temperature so
14 that you can use it for domestic hot water and heat.

15 And so I just wanted to point out that at
16 the Commission, we do have some experience with
17 regulating those kinds of systems. And there are
18 district energy systems that use that as their primary
19 source of energy, and there are individual buildings
20 that use that as their primary source of energy. So,
21 there is some analogies there, as I see it at least,
22 with the geothermal systems that you are describing.

23 So, I just wanted to reassure you that if
24 you ever were before us with your system, you would
25 certainly have some understanding from our perspective
26 of your system, and we understand the concept, and we

1 get it.

2 MR. THOMPSON: No, no, that's not the point I wanted to
3 make, and I appreciate that. Now the point I wanted
4 -- it kind of harkens back to the discussion we had
5 prior about return. I mean, if you are going to dig
6 down three metres and lay down a bed of loops and push
7 around your glycol, or glycol mixed with some pumps,
8 your risk profile --

9 THE CHAIRPERSON: Is a lot lower, yes.

10 MR. THOMPSON: Is a lot lower, right? Whereas we
11 really want power --

12 THE CHAIRPERSON: No, you've got to find the heat down
13 there. Yes.

14 MR. THOMPSON: So we're a creature of a different sort.
15 I think at the end of the day, we still may be cheaper
16 to the customer, but the rate of return expectation
17 might be different.

18 THE CHAIRPERSON: Understood. Thank you.

19 MR. THOMPSON: Okay. So thank you. A very Canadian
20 moment.

21 So that is thread one. Thread two, market
22 access for Indigenous utilities. Oh God, here is some
23 real -- I have to read this, because it's just not
24 natural to me. It is KGI's view that issues or
25 matters pertaining to the access of Indigenous
26 utilities to other utility, transportation or

1 distribution systems are inextricably intertwined with
2 this inquiry's obligation to advise the government on
3 the scope of the regulation of Indigenous utilities in
4 the public interest. Which is a very awkward way of
5 saying I think that we think that market access is a
6 subject for this panel. When you start talking about
7 Indigenous utilities. And the access is not equal I
8 think today. The Crown utilities have preferential
9 access to the market, and there may be very good
10 reasons for that. We'll argue that separately, just
11 recognizing that exists.

12 So we wanted to put forward again sort of
13 two themes about how broader or more open access to
14 the relevant markets for Indigenous utilities might be
15 either appropriate and/or in the public interest,
16 right? And the basis for that was really sort of
17 putting forward two ideas, one based on parity or
18 equivalence, and the second one based in, for lack of
19 a better word, fairness.

20 So, from a parity perspective, the
21 operations of an Indigenous utility are basically
22 indistinguishable from any other utility, heat or
23 electricity. There is technologies which may
24 underneath the ground look a little different, but on
25 the surface, there is no difference. So we would feel
26 that that is not necessarily a basis for differential

1 treatment.

2 And then similarly, if the Indigenous part
3 of that utility starts to gain self-determination and
4 ownership or control over territory, it starts to feel
5 like a Crown for us. So that to me we feel that there
6 is an emerging idea under the sort of sense of
7 equivalence or parity that Indigenous owned utilities,
8 you know, deserve to be accorded the same access as
9 the Crown, right? And I think that you've heard --
10 I'm not going to refer specifically, but generally
11 you've heard a lot of anecdotal testimony about how
12 maybe that access has not always been there or
13 available as wanted by Indigenous communities. And to
14 me, this is the thing that starts to change how that
15 should be, or maybe want to be viewed.

16 And then there is the sort of, if we slip
17 back to the government, there is this view of
18 reconciliation, and this idea of self-determination.
19 Again, people have spent their entire careers at this.
20 I am trying to build a geothermal power plant, so I
21 don't know what I'm doing.

22 But to me, there seems to be a match
23 between the espoused goals and how that might come to
24 pass, right? And the thing we didn't -- we sort of
25 touched on this, but we didn't get all the way there
26 in Williams Lake, was, well then what's market access?

1 What does it really mean when you kind of pull at it,
2 right? To me it doesn't mean going through an
3 incumbent utility, right? It's just odd that you have
4 to qualify through access through a competitor. I
5 mean, sort of natural conflict would suggest they have
6 their own interests. I think it is quite natural for
7 them to put theirs first. I'm not arguing with the
8 point. If I was the channel captain owning the
9 channel, I'd do that too. However, it seems odd that
10 we would have to qualify through a competitor to serve
11 the market that they are serving, right? And then if
12 we start to believe the situation is becoming equal,
13 then that feels odd.

14 Then there is the idea that when you get to
15 a market, how you sell your wares, it can be very
16 important. The idea of bundling and unbundling goods
17 and services notable, renewable energy certificates.
18 You know, under this standing offer we had to
19 surrender those for no additional value, which then
20 the government used to extinguish a number of its
21 obligations, federally. But we weren't compensated
22 for that, just full stop. The incumbent utilities
23 might have a different view on that, but there was no
24 clear, if you will -- maybe it's a better way, a more
25 fair way to phrase it.

26 So that we would suggest that market access

1 should be open in the sense that if that's the market,
2 how we bundle our goods and services should be
3 something that we would choose to do, rather than what
4 is chosen for us.

5 Then there is the form of market access
6 where you can say "Well it's open, but there are
7 tariffs." Right? You can, such as the OAT, the open
8 access tariff. But the open access tariff as
9 currently constructed doesn't really relate actual
10 costs and/or benefits for coming on the grid to the
11 circumstance, right? There could be cases where
12 coming on the grid actually provides a net benefit,
13 but you're still paying costs. Or you could be
14 neutral, or there could be genuine costs related to
15 the transport, but that's not a consideration,
16 necessarily, under the tariff.

17 So that, especially as a small supply, some
18 of the fixed costs related to tariffs like that
19 effectively create a barrier to access. So there's,
20 sort of -- it looks ostensibly open, but somehow you
21 still can't access you market, even though you've got
22 a value proposition that would lower cost to the
23 customer and lower ratepayer costs, right?

24 So we're just putting it out there that if
25 there is a tariff, and that's quite reasonable, it
26 should contemplate, you know, the reality of the --

1 maybe more local context, right?

2 And then there's the catchall. We're
3 geothermal power developers, but there's probably
4 provisions that we're not aware of. So if there are
5 other provisions that are there that may have come to
6 pass in the past that were there for good reasons but
7 restrict market access, we would ask that they be
8 revisited, right? So that's the stuff that we sort of
9 under parity and, sort of, expansion market acts.

10 Now turning to fairness. You know, we went
11 to your website and you were very clear. You believe
12 in transparency and fairness in your process, right?
13 I think you do that because it creates the fairness in
14 outcomes, right? So that hopefully a good process
15 results in good outcomes, it's in the intro. But it's
16 kind of weird, and I refer to the remarks by Mark
17 Starlund, he's the president of the -- I'm going to
18 say this wrong, I apologize, the Gitanyow Economic
19 Development Corporation, and I'll quote him, page 182:

20 "You know the grid in British Columbia in
21 particular has, for the most part, been
22 built on the First Nations of British
23 Columbia's traditional territories and for
24 the most part has been just expropriated
25 without dealing with that issue."

26 Now, it was further reinforced, we thought,

1 when Ms. Gemeinhardt of the Kitsumkalum spoke to her
2 example of about BC Tel. How, at some point, they
3 were forced sort of into a common carriage kind of
4 situation.

5 I've just been handed a conflicting
6 instruction. It says I'm well past time but keep
7 going. So I'll keep going unless the Commission deems
8 that I need to stop.

9 But Ms. Gemeinhardt who has sort of said,
10 you know, there was a moment in time where BC Tel was
11 forced to sort of let other people transmit voice on
12 their line. And to us this sort frames this problems,
13 which is sort of steeped a bit in reconciliation and a
14 bit in rights.

15 And, you know, we sat around kicking it
16 about. And I think the best word we could come up for
17 it is "awkward". You know, you've got a potential
18 Indigenous utility requesting access on physical
19 assets who never requested access for their
20 construction, right? And there's a certain *je ne sais*
21 *quoi* that attaches to that, and again back to the
22 tone. I don't want to be misinterpreted. I'm not --
23 this is not about you per se.

24 THE CHAIRPERSON: Understood.

25 MR. THOMPSON: It's more, you know, "Wow, I don't know
26 what to do with that." Right? But so here we are,

1 we're asking for access, right? You know, and so we
2 would like, either under the rubric of parity or under
3 the rubric of fairness, equal access to that of the
4 crown. And you'll have to manage us and we'd gladly
5 be regulated. But, you know, we'd like to not just
6 make energy but like to sell, right? At the end of
7 the day.

8 And then there's this -- also under
9 fairness. And this is a little bit less obvious, or
10 more obvious, depending on where you sit within our
11 partnership. Site C, right? Looking in from the
12 outside, it looks like Site C effectively had a pass
13 on whether it should proceed or not. You know, it did
14 come before this panel and, in progress, get assessed.
15 And a large body of evidence, no chance to read it, so
16 I got to the executive summary.

17 But you said, and I quote:

18 "The panel believes increasingly viable
19 alternative energy sources such as wind,
20 geothermal and industrial curtailment could
21 provide similar benefits to the ratepayers
22 as the Site C project with an equal or lower
23 unit energy cost."

24 And I couldn't think of a nicer thing to
25 say, right? And where I'm headed is, you know, Site C
26 is a big hunk of the market. And it's come in with a

1 bit of a pass, if you will. You know, Indigenous
2 utilities, however they may be constructed or
3 construed, in fairness, might be looking for similar
4 treatment, right? In the sense that over examination
5 of whether they should be there or not could be
6 construed from where they are as unequal treatment,
7 right?

8 And then there's the idea that, you know,
9 Site C is heavy fixed cost, light operating costs.
10 But once it's in it's all about the OpEx, depending on
11 how you them, the rate base, right? It can create a
12 very difficult situation to enter. So does it follow
13 on a corollary idea that, you know, the Indigenous
14 utilities as we've tried to think of them, wants to be
15 protected from sort of, you know, uncompetitive energy
16 competition that may stem from Site C as a result of
17 its treatment. This is sort of how it got to where it
18 is.

19 I could very easily see someone making an
20 argument, "Well, I could just do a little bit more out
21 of Site C. The incremental cost of that is only,
22 this." And we would have a difficult time,
23 economically, if you will, compete against partially
24 loaded costs. And it gets there by virtue of not
25 being examined, right?

26 So I think that there's a fairness thing

1 that's lurking around the idea of someone else got
2 into the market unexamined, why not I? Right? And
3 that's not meant necessarily to go around you, I'd
4 rather put it on the table and be obvious about it,
5 right?

6 THE CHAIRPERSON: Understood.

7 MR. THOMPSON: Yeah. Then there's this -- you know, we
8 get -- this idea of fairness seems to extend a little
9 further than sometimes we mean it to, but the
10 provincial government has, you know, put forward an
11 idea of reconciliation, self-determination. And then
12 it has, you know, through an incumbent utility,
13 established a connection between reconciliation and
14 the power market. Which, you know, I don't want to
15 judge the normative value of that. Because if it was
16 the oranges market and I was selling oranges I'd be
17 mad, right? But they've picked the power market for
18 good or for ill and, you know, Mr. Wilson of the
19 Metlakatla noted this. About, you know, how in his
20 discussions around the, sort of, benefits of Site C.
21 And we've also seen, you know, BC Hydro's own efforts
22 where they've gone forward, tried to close five PPAs
23 in a context where they really don't need them. But
24 with affected nations related to Site C.

25 And so that we get into this idea that
26 reconciliation attaches to entry into the power

1 market.

2 You know, if that's not an entry point,
3 what could it be? You know, if you're going to be an
4 Indigenous utility, how would you decide between
5 Indigenous utilities? Because broadly speaking, I
6 think each of them could make some kind of impact, you
7 know, argument related to what's transpired in the
8 past, if not in the future.

9 So that we think that, broadly speaking,
10 you know, that reconciliation efforts also support
11 this idea of opening the market up to Indigenous
12 utilities. So, I know I'm way passed 15. But, so
13 that sort of to me, block two, right?

14 Block three, geothermal case in point. And
15 I apologize, I've gone -- until you kick me out I'll
16 stay here. I could be here past lunch, right? But
17 now, you know, again, I don't know what the graphics
18 -- October 1, 2018. I mean, if you thought Site C
19 was big, this thing dwarfs it, right? LNG Canada's
20 approved FID, \$40 billion investment. So, I got to
21 move fast. That's like building Victoria and Kelowna
22 at once, from zero.

23 It requires 750 -- I'm going to move now.
24 750 megawatts of electrical power. BC Hydro can only
25 give them 100, it's a transmissions constraint. You
26 know, the government's given a certificate to let LNG

1 Canada burn natural gas, an exemption from the *Clean*
2 *Air Act*.

3 We're quite close. No, wrong one. We can
4 provide power in an end of line context to LNG.
5 However, when we read the retail access provisions,
6 LNG Canada has the choice of all power from BC Hydro,
7 all self-supply, topping up with one other person, or
8 one other supplier has got to supply all 650
9 megawatts, which we cannot do, right?

10 We would suggest that this inexplicably
11 precludes us from the market. We can be a low-cost
12 adjacent supplier, offsetting natural gas in the
13 airshed, which is about to become the most polluted in
14 the province. So, again, under this sort of case in
15 point discussion, I am going to -- I have other
16 remarks, but I will move along.

17 We would suggest that it is not only in the
18 interest of LNG Canada, but we can demonstrate if so
19 asked, as to why it's in the ratepayer's interest, at
20 least at our level, where we are not regulatory
21 lawyers. We can do some math, submit to you that we
22 think that this is a pretty good idea.

23 And long argument skipped, we were going to
24 endorse the position that a First Nation collective
25 supplied power and own the transmission lines to LNG
26 Canada, and I was just informed at 9:30 this morning,

1 something called the Kitimat Transmission Project is
2 being mooted. First I've heard of it, 16 First
3 Nations joint venturing with -- and Borek as their
4 development partner, and Ontario Teachers Pension Fund
5 building a notional line between Prince George and
6 Kitimat, 530 klicks, 1.8 billion.

7 THE CHAIRPERSON: I'm sorry, I missed what you said at
8 the beginning? Was that a transmission line?

9 MR. THOMPSON: Yeah, someone has just proposed that I
10 think a transmission line be built between Prince
11 George to the second of the LNG plants.

12 THE CHAIRPERSON: Okay.

13 MR. THOMPSON: But it will effectively put the first
14 one on the dime, right? Once you build the capacity.

15 THE CHAIRPERSON: Right.

16 MR. THOMPSON: Do you then turn off? Then the units
17 are not -- so. That came to our attention after that.

18 So look, thank you very much for your time,
19 I really appreciate it. So thank you for the
20 opportunity.

21 THE CHAIRPERSON: Well, we really appreciate your
22 thoughts, and we appreciate you coming to talk to us
23 again. Thank you. I will just see if Blair has any
24 questions?

25 COMMISSIONER LOCKHART: I don't have any questions,
26 thank you, Mr. Thompson.

1 THE CHAIRPERSON: And if Carol-Ann has any questions?

2 COMMISSIONER BREWER: I actually do have a question,
3 and it relates to -- I guess what I'm hearing are two
4 things. One of them is the service element that you
5 are proposing that I guess there be kind of a local
6 service element, and I guess the reason I am thinking
7 about this is, I'm wondering whether there might be
8 any kind of distinction in your mind about regulating
9 services on reserve versus off reserve? And I
10 recognize that part of what you're talking about here
11 is I guess the revenue generating elements of your
12 proposed generation.

13 But I'm also wondering whether -- would you
14 see any distinction between, for instance, if the
15 service was -- if everything was turned into reserve
16 land, under the land claim, and the industrial park
17 and whatnot was on reserve land and whatnot, would
18 there be any distinction in your mind?

19 MR. THOMPSON: So to paraphrase, let's skip the idea
20 that there could be a definitional land thing in play,
21 we solved that problem, we put it aside.

22 So then we end up with two types of
23 utilities; one Indigenous, and one not. Effectively
24 walled off from each other, or not, by some sort of
25 geography. To me this creates a -- I want you guys to
26 think through this issue clearly, because I think this

1 is coming. I think that self-determination could be
2 sooner than later, and things like investing in the
3 power lines. First, who is going to get access to a
4 First Nations' owned powerline, could be very
5 different scheme, and how do those work together?

6 To me it is not about whether they be
7 treated differently. I think they have to be in some
8 regard, based on a capacity discussion, i.e., not
9 electrical capacity, but the rules of operation have
10 to be thinner. They can't be 2,000 pages, you know?
11 A First Nations utility will require simplification.

12 It doesn't mean it's worse or better, but
13 you are going to get really interesting things when,
14 you know, someone is going to try and offer industrial
15 power across the border, right? However you run the
16 numbers, the industrial power rate is below the cost.
17 There is just -- so that how do we offer industrial
18 power across the borders as the Indigenous utility?
19 So if we don't have sufficient number of residential
20 ratepayers to make up that difference on the volume,
21 right?

22 So I think that for me, it's not defining
23 the borders, per se, that is going to be the
24 difficulty, it's how we interact across them, right?
25 And you're going to want to have sort of natural
26 economies of scale. It's going to be the case that

1 most energy installations will want to be larger than
2 First Nations communities, which are very small, to
3 get their economics to a reasonable place. Because
4 you don't want to build these really subscale units
5 and say "yippee, you guys want out, you're Indigenous
6 utility, your cost of power just tripled." So that
7 you want to build economic scale, which means power is
8 going to flow across into the other market, and then
9 how do you define the competition?

10 And ratemaking is going to twist itself
11 into knots, I would suggest, trying to figure it out.
12 But engage, do it, figure it out, right? I'm not
13 trying to create the problems, it's very more the
14 challenge to be overcome. Because we think that
15 that's the essential issue, right?

16 You know, what's the smallest windfarm
17 these days? Wants to be 50 megawatts? Probably
18 better wants to be 100. Or solar power, or wind
19 power. There is no community that is going to sustain
20 that in terms of internal consumption. So I don't
21 care how you define the borders, it's going to flow.
22 But then how do we interact.

23 I think I've addressed your question, but--

24 COMMISSIONER BREWER: Well, and I guess that you hit
25 the nail on the head, because I'm kind of wondering,
26 okay, we're grappling with how do we define an

1 Indigenous utility for purposes of all of these
2 things, rates and everything else, right? So yeah, so
3 I mean I guess what I am struggling with is the whole
4 element of whether it becomes just a revenue question?
5 And whether that is, you know -- I understand your
6 points about the Crown.

7 MR. THOMPSON: I may have just got it.

8 COMMISSIONER BREWER: Okay.

9 MR. THOMPSON: Sort of earth to the moon, takes a few
10 seconds. But are you saying there is a difference
11 between just owning a slice and getting money versus
12 running a utility?

13 COMMISSIONER BREWER: That's exactly what I am
14 thinking.

15 MR. THOMPSON: I would argue that most of the First
16 Nations I've had the pleasure to work with have the
17 capacity to run a utility. Many of them work for
18 utilities today. So I don't think that's an issue.

19 COMMISSIONER BREWER: And it's not even so much the
20 capacity issue that I am sort of struggling with, it
21 is just if it is is a purely market endeavor, I guess
22 are we then looking at -- would that be in a different
23 kind of -- I mean, obviously you could create criteria
24 around that and whatnot, to potentially -- and I'm
25 sort of speculating here, because frankly I haven't
26 thought enough about it to really grapple with how you

1 would do it. But you're talking about some kind of an
2 advantage or a -- I guess what I'm hearing is you are
3 asking for a -- not advantage, but an equal playing
4 field that would involve giving something else too.

5 MR. THOMPSON: Like probably every corporation that
6 appears before you, we're going to argue for a legal
7 -- level playing field, and then we'll say "except"
8 and then we'll tell you what's special about us, and
9 why it should be different for us. I think that
10 argument is what generally people provide, and we're
11 no different. I think speaking on behalf of our
12 business, we'd like to be treated equivalent to a
13 Crown, we'd like to have access to the market, but
14 there are things different. And the reason why you
15 come back every year to the BCUC is that context may
16 change, right?

17 But you know, yeah, this is the problem,
18 and I tried to highlight at Williams Lake. It is not
19 the definition of the utility that's going to be
20 really important I don't think, because we can all opt
21 in and opt out structurally. It's how they interact
22 and what are the outcomes of that. So that less about
23 process, can't throw away process, but more about how
24 is it going to work? We say someone in Skeena has set
25 up an industrial operation, Hydro rolls out their
26 industrial rate card. We scream foul. We say, hey,

1 we know that the cost of getting that there is above
2 that price. You're selling on otherwise traditional
3 lands. How do you get away from that?

4 Now, that's a rate hearing, right? So this
5 to me -- I'm trying to like -- that's the sharp end of
6 the knife. And so the first part is we'd all like an
7 opportunity to play, we really would like an
8 opportunity. And I'm bias because I'm going to
9 benefit, that is true unequivocally, but I think my
10 partners would suggest that they would like an
11 opportunity to try. But then the interaction is going
12 to be where this thing is going to get complicated.
13 Cool?

14 THE CHAIRPERSON: Very good.

15 MR. THOMPSON: Thank you for your time.

16 THE CHAIRPERSON: Thank you very much. Appreciate it.

17 MR. GEORGE: Thank you, Mr. Thompson.

18 If you have not registered to address the
19 panel, in an effort to make the process and the panel
20 more accessible I want to offer an opportunity to
21 anyone who would like to address the panel.

22 Yes, sir. Please state your name, and
23 first and last name, spell your last name for the
24 record, please.

25 **PRESENTATION BY MR. HOY:**

26 MR. HOY: Okay. Thanks, Dan. Tim Hoy, H-O-Y. Hello

1 again, David, nice to see you.

2 THE CHAIRPERSON: Hello, Mr. Hoy.

3 MR. HOY: Is this other mike working yet or --

4 THE CHAIRPERSON: No.

5 MR. HOY: Okay. I didn't register to make a statement
6 because it's difficult I guess to separate and just
7 trying to be respectful to the questions that were
8 asked and respond to those. Through listening to the
9 other gentleman speak about the Kitselas challenge,
10 we're in a similar situation where we're working for a
11 nation to put together an energy project that meets
12 the needs of the community, and then looking at all
13 the interactions that happen with all the various
14 stakeholders in that arrangement.

15 The one comment that I wanted to make just
16 -- hopefully it will be on point, but really the --
17 when a First Nation looks at the purpose of a utility
18 to service the needs of the Nation, it's a different
19 arrangement than a ratepayer or a corporation would be
20 in and I think the context of in looking at it today
21 makes it challenging when you have only the framework
22 of the *Utilities Act* and some of the traditional
23 elements that have brought us to where we are.

24 For a First Nation one of the benefits I
25 would see to having that utility defined is it's going
26 to allow the Nation to consolidate where the costs of

1 energy are happening, which is going to be different
2 whether it's in an integrated or an non-integrated
3 community. The reality is there's funding that comes
4 from the federal ISC and other aspects into the
5 Nation. Sometimes that's done clearly in a defined
6 way, sometimes in an undefined way. Then you have the
7 different zone rates that apply, and then you have
8 transactions that happen inside the community and
9 potentially inside the government to BC Hydro to
10 subsidize the costs of that energy.

11 So for a First Nation who is looking to
12 achieve self-determination, either with an economy or
13 energy self-sufficiency, that's going to be an
14 incredible challenge for them, is untangling those
15 threads of where does all this money come in and what
16 are the actual costs of energy in the community right
17 now, so that a determination can even be made whether
18 it's in the ratepayer's best interest to continue to
19 move in one direction or the other.

20 The other thing I'll state is that it --
21 and personally this is important as well, is that we
22 really don't have a choice as a ratepayer in the
23 province right now to accept anything other than what
24 we get. And unfortunately -- there are a lot of
25 benefits to what we've built out in terms of an energy
26 grid and generation equipment, but the idea that one

1 size solution fits all really doesn't have a lot of
2 relevance today. When you look at a small community,
3 whether it's in a neighbourhood that's looking for
4 some more resiliency or whether it's for a Nation that
5 wants another source of an economy in order to create
6 this self-determination that we've all acknowledged
7 needs to happen.

8 So it really provides an opportunity in a
9 way that I would model after the economic development
10 operation, where you're taking energy away from being
11 a political entity and into another arrangement, a
12 First Nations utility that then has a clear mandate to
13 look after their ratepayers or the people that are
14 within that defined territory. And it allows an
15 interdependent relationship with the existing BC Hydro
16 and the other utilities that are there.

17 The last point I'd like to make is that
18 really the function of a First Nation utility, if I
19 was to envision it ideally, it would be at a level
20 where it enables the utility at a local level for the
21 community to be successful. So rather than creating a
22 situation where an entity has to create itself fully
23 formed and able to interact with all of these other
24 stakeholders, it really -- I think there's models out
25 there we can use. That first concept should be to
26 explore further these issues that are opened up here,

1 look ultimately at what the function of that utility
2 would be, and then what do we need to put in place in
3 order to enable the Nations to build a functional
4 utility over time.

5 Thank you for allowing me to speak and any
6 questions I'd welcome.

7 COMMISSIONER LOCKHART: Thank you very much, Mr. Hoy.
8 Who are you with? I see you've got a name tag. Who
9 are you with?

10 MR. HOY: We have a company called Clean Energy
11 Consulting. So we do energy both at an industrial
12 scale and at a community scale, renewable.

13 COMMISSIONER LOCKHART: Okay. And are you based here
14 in Prince George?

15 MR. HOY: Yes, we are. Yes.

16 COMMISSIONER LOCKHART: All right. Thank you.

17 THE CHAIRPERSON: Thank you, Mr. Hoy.

18 MR. HOY: Thank you.

19 THE CHAIRPERSON:

20 MR. GEORGE: Thank you, Mr. Hoy.

21 State your first and last name, spell your
22 last name for the record.

23 **PRESENTATION BY MS. ANDREWS:**

24 MS. ANDREWS: Thank you. It's an honour to be on
25 traditional Lheidli T'enneh territory. And I would
26 like to ask the panel -- my name is Karen Andrews,

1 A-N-D-R-E-W-S. I am a Métis citizen, residential
2 school survivor, elder, university current student. I
3 love auditing classes. So I'm here as a general
4 interest.

5 And my question is to all three of you,
6 what do -- what is your role when it comes to
7 utilities on reserves, number one; and unceded
8 traditional territory, number two. Is there a
9 difference and how does that impact? After I heard
10 the first presentation I'm thinking to Carolann's
11 question about what the difference would be whether
12 it's on reserve or not tweaked my interest.

13 So what have you seen so far with those two
14 land-based issues with your roles?

15 THE CHAIRPERSON: So currently the *Utilities Commission*
16 *Act* defines a public utility as any entity that sells
17 energy in British Columbia. I'm paraphrasing here,
18 but that's the definition of a public utility. It
19 doesn't differentiate where that entity is located or
20 where it generates the energy or how it gets the
21 energy.

22 So as a consequence we have been regulating
23 and dealing with utilities that operate on -- well, we
24 don't differentiate between where a utility operates.
25 It could operate on band land, it could be on unceded
26 territory, it could be on treaty territory, it

1 wouldn't be a consideration for us at this point.

2 MS. ANDREWS: Thank you.

3 MR. GEORGE: Thank you very much. I think that's it
4 for presentations.

5 THE CHAIRPERSON: Okay. Thank you, Dan.

6 MR. GEORGE: I'd like to remind everybody of the next
7 steps that Phil spoke to in his earlier comments.
8 Anyone who wishes to provide written evidence can send
9 it to the BCUC budget July 15th, 2019. An interim
10 report on the BCUC's progress and preliminary findings
11 is due by December 31st, 2019, which will take into
12 account presentations made at community sessions and
13 written submissions. A draft of this report will be
14 made available for comments to Indigenous communities
15 and other interested parties by November 1st, 2019.
16 The final report to the government of B.C., with the
17 BCUC's final recommendations is due January 31st, 2020.
18 And more information on the inquiry and how to stay
19 involved can be found at bcuc.com.

20 I want to thank the presenters today for
21 taking the time to address the panel. And I also want
22 to acknowledge Elder Kenora Stewart for the welcome to
23 the territory. We ask -- invite you to join us for
24 lunch here and thank you very much for taking time.

25 (PROCEEDINGS ADJOURNED AT 11:42 A.M.)

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I HEREBY CERTIFY THAT THE FORGOING
is a true and accurate transcript
of the proceedings herein, to the
best of my skill and ability.



June 27th, 2019