

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

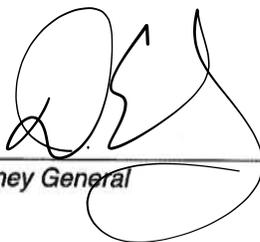
Order in Council No. 108, Approved and Ordered March 11, 2019



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the attached order, British Columbia Utilities Commission Inquiry Respecting the Regulation of Indigenous Utilities, is made.



Attorney General



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Utilities Commission Act, R.S.B.C. 1996, c. 473, s. 5

Other: _____

BRITISH COLUMBIA UTILITIES COMMISSION INQUIRY RESPECTING THE REGULATION OF INDIGENOUS UTILITIES

Definitions

1 In this order:

“Act” means the *Utilities Commission Act*;

“indigenous nation” means any of the following:

- (a) a band within the meaning of the *Indian Act* (Canada);
- (b) the Westbank First Nation;
- (c) the Sechelt Indian Band and the Sechelt Indian Government District established under the *Sechelt Indian Band Self-Government Act* (Canada);
- (d) a treaty first nation;
- (e) the Nisga’a Nation and Nisga’a Villages;
- (f) another indigenous community within British Columbia, if the legal entity representing the community is a party to a treaty and land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982* that is the subject of Provincial settlement legislation;

“indigenous utility” means a public utility that is owned or operated, in full or in part, by an indigenous nation.

Referral to commission

2 By this order, the Lieutenant Governor in Council, under section 5 (1) of the Act, requests that the commission advise the Lieutenant Governor in Council respecting the regulation of indigenous utilities in accordance with the terms of reference set out in section 3 of this order.

Terms of reference

3 (1) Subject to subsection (2), the terms of reference, in accordance with which the commission must inquire into the matter referred to it by section 2, are as follows:

- (a) the commission must advise on the appropriate nature and scope, if any, of the regulation of indigenous utilities;
- (b) without limiting paragraph (a), the commission must provide response to the following questions:
 - (i) What are the defining characteristics of indigenous utilities, having regard to
 - (A) the nature of the ownership and operation of indigenous utilities,
 - (B) the types of services provided by indigenous utilities,
 - (C) the persons to whom services are provided by indigenous utilities, and
 - (D) the geographic areas served by indigenous utilities.

- (ii) Should indigenous utilities be regulated under the Act or under another mechanism, or be unregulated?
 - (iii) If it is appropriate to regulate indigenous utilities under the Act, is there any matter under the Act in respect of which indigenous utilities should be regulated differently from other public utilities, and, if so, how should that matter be regulated?
 - (iv) If it is not appropriate to regulate indigenous utilities under the Act but is appropriate to regulate indigenous utilities in some manner, how should indigenous utilities be regulated?
 - (v) If an indigenous utility is not regulated under the Act, would the utility become subject to the Act on ceasing to be an indigenous utility, and, if not, what transitional and other mechanisms are required to ensure that the utility is subject to the Act on ceasing to be an indigenous utility?
- (2) It is a further term of reference that the commission must submit to the minister responsible for the *Hydro and Power Authority Act* reports as follows:
- (a) an interim report describing the commission's progress to date and the commission's preliminary findings must be submitted no later than December 31, 2019;
 - (b) a final report describing the results of consultations undertaken by the commission and the commission's findings and recommendations must be submitted no later than January 31, 2020.