

B.C. Utilities Commission Indigenous Utilities Regulation Inquiry



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British Columbia
Utilities Commission

BCUC Indigenous Utilities Regulation Inquiry

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June 27, 2023

What was the Indigenous Utilities Regulation Inquiry?

In March 2019, government directed the BCUC to provide recommendations regarding the regulation of Indigenous energy utilities in BC.

The BCUC's Indigenous Utilities Regulation Inquiry explored and sought feedback on several important questions, including:

- How should the concept of an “Indigenous Utility” be defined?
- Should Indigenous utilities be regulated or not? And if so, how?

The inquiry involved extensive community engagement. Indigenous groups also participated in the proceeding as interveners, interested parties and by submitting Letters of Comment.

In April 2020, a final report was submitted to government. The report included 35 recommendations.

- 32 recommendations were directed to government
- 3 recommendations were directed to the BCUC itself

What is an Indigenous Utility?

- An Indigenous utility be defined as a public utility for which, as the owner or operator, an Indigenous Nation has control. It is not limited to the types of services to be provided but includes the provision of public utility services to persons in its service area.
- An Indigenous utility be regulated by a competent arm's length regulator.
- An Indigenous utility providing services on its reserve land, Westbank Lands or Sechelt lands, could determine the means of regulation provided they demonstrate an arm's length complaint and dispute resolution process to protect all ratepayers.
- Indigenous utilities controlled by the Nisga'a or Tsawwassen First Nation be exempt from the Utilities Commission Act (UCA).
- An incremental approach be taken to the entry of Indigenous utility operation on Traditional Territory, the UCA be amended to require the BCUC to consider UNDRIP and the economic development needs of a First Nation applying to operate an Indigenous utility on Traditional Territory.

Recommendations to Government:

The Inquiry focused on regulation. However, the implementation of these proposed regulatory changes require the consideration of other matters, such as capacity. The final recommendations reflect these considerations.

The recommendations covered a range of topics, including:

- Appropriate checks and balances to ensure service standards, fair pricing and safety
- Retail access and wholesale energy sales
- Working with incumbent utilities
- Changes to the UCA
- The potential exception of Indigenous governments from the UCA
- Capacity building
- Dispute resolution
- The provision of funding and other supports

The recommendations are currently with government for consideration. The UCA continues to apply to all public utilities operating in BC currently regulated by the BCUC, including on Indigenous lands.

Recommendations to the BCUC:

Recommendations to the BCUC focused on ensuring that Indigenous people in BC are well served under the current regulatory system, and on building capacity around utility regulation in general:

1. Develop a strategy to build Indigenous capacity in utility regulation
2. Modify regulatory processes to better reflect reconciliation
3. Include Indigenous peoples in Staff and Commissioner roles

Implementation of these recommendations is ongoing, for example:

- The BCUC has Indigenous people serving in Commissioner and senior staff positions
- An in-depth review of BCUC processes and practices is currently underway
- A regulatory “Tool Kit” is under development to support Indigenous groups to navigate BCUC processes and to build capacity around utility regulation
- BCUC staff regularly meet with Indigenous groups interested in learning more about utility regulation or to discuss potential community projects
- The BCUC will launch a new capacity fund for Indigenous interveners

Interested in learning more?

Please reach out to the BCUC if you have questions:

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Other Resources

- [Indigenous Utilities Regulation Inquiry Final Report Summary](#)
- [Indigenous Utilities Regulation Inquiry Final Report](#)
- [Fact sheets about public utility regulation in BC and how to participate in the process](#)



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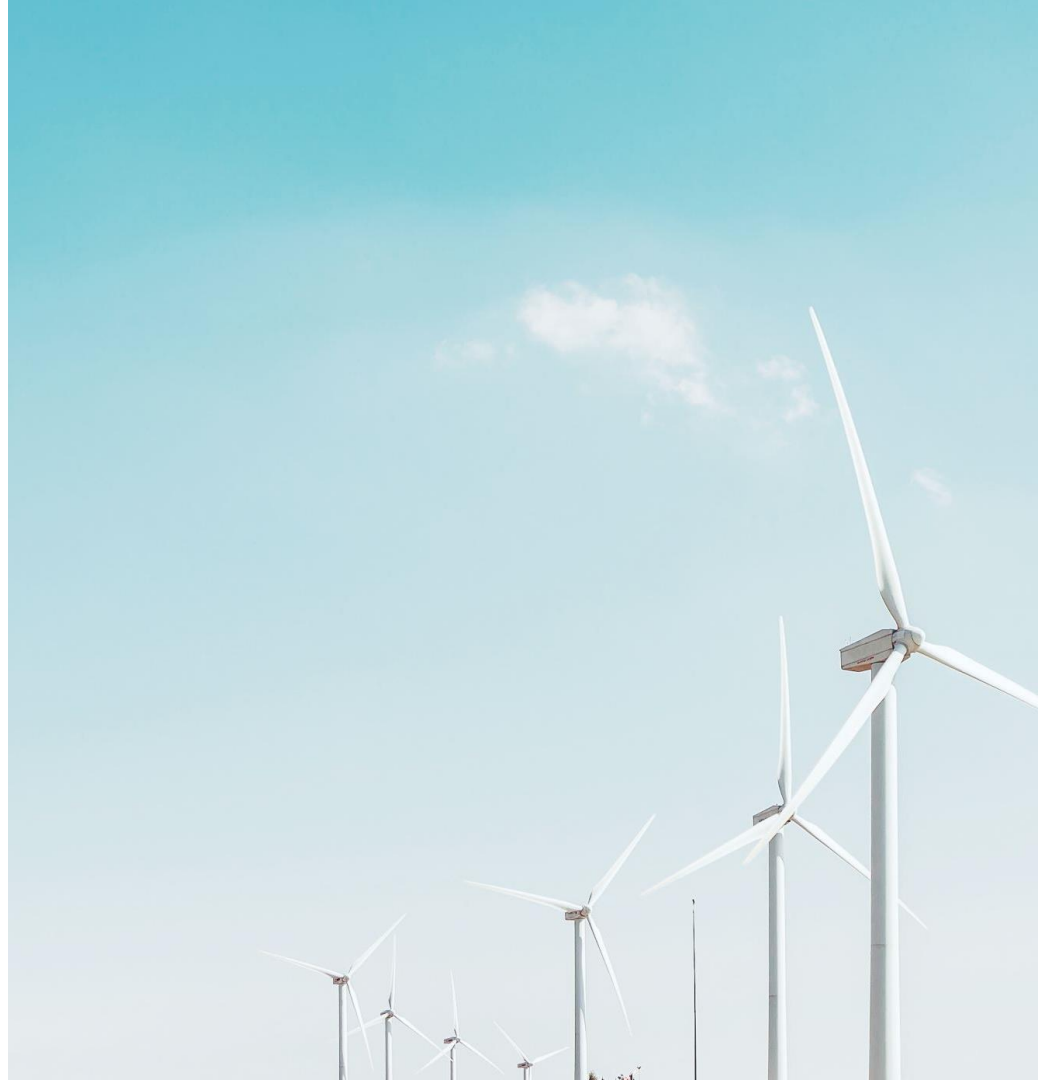
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Indigenous Utility Design

Indigenous Clean Energy
Opportunities Workshop

June 27, 2023



Continuum of Options

- Today's discussion is the distillation of work led by Clean Energy BC (and initially the NRT) asking: "what should an Indigenous Utility (or Indigenous Utilities) look like in BC?"
- An early conclusion was that there is one essential relationship that seems to drive a lot of the design questions:
 - Benefits grow with complexity
- That is, models that deliver relatively low benefits can be implemented easily, but as larger benefits are sought, the complexity increases.

Model 1

- This issue was illustrated by three representative models we looked at:
- **Model 1 (Small):** On reserve utility delivering service to on- reserve customers.
 - **Benefits:** potentially very large socio-economic benefits to the community, but the possibility for large economic returns is limited
 - **Complexity:** relatively easy to design, finance, and operate; few regulatory obstacles; requires relatively little of government or BC Hydro; no common design or benefit sharing complexities to resolve with other First Nations.

Model 3

- **Model 3 (Large):** A single, First Nations vertically integrated utility, with a defined service area carved out from BC Hydro's service area (for example, serving all areas north of the existing Prince Rupert to Prince George corridor).
- **Benefits:** Would place an economically critical part of the Province in the hands of a First Nations utility, creating enormous socio-economic benefits for a large number of First Nations. Does not require a complex "up front" design process
- **Complexity:** Hugely complicated and difficult to assess; significant regulatory obstacles; requires complex and financially significant decisions of government and BC Hydro; since there would only be one utility, would require First Nations agreement "up front" on the design

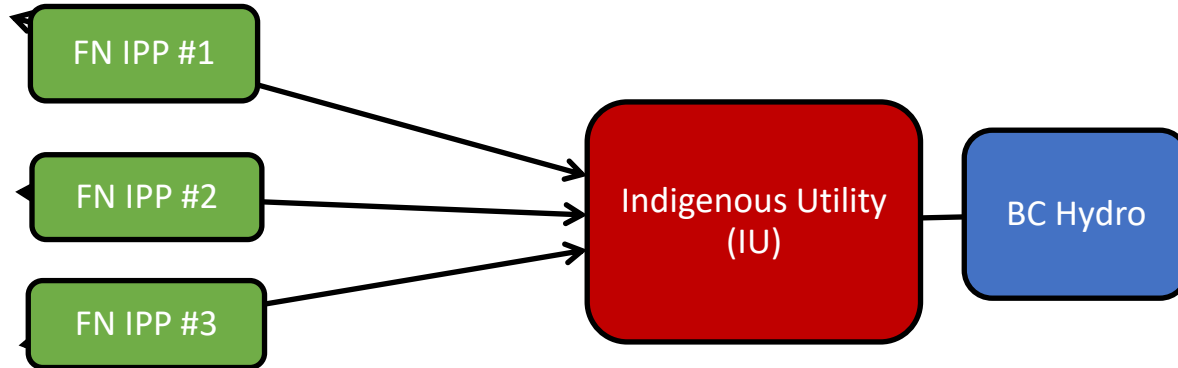
Model 2

- **Model 2 (Medium):** A flexible model which allows individual First Nations or collectives of First Nations to establish Indigenous Utilities (within broad design criteria) to undertake certain activities for which they will have defined advantages: a carve out of future calls, and the rights to retail access and “unscheduled” use of the transmission system are suggested as the first special rights. A common First Nations-owned support and advocacy body could develop alongside to work with government and First Nations to help advance and develop the initiative.
- **Benefits:** Requires relatively little from government, financially, legislatively, or by policy. Wide flexibility for First Nations to tailor to local need, interest, and opportunity.
- **Complexity:** Relatively easy to design. Creates few regulatory obstacles. Requires relatively little from government and BC Hydro up front. Not expensive at reasonable scale.

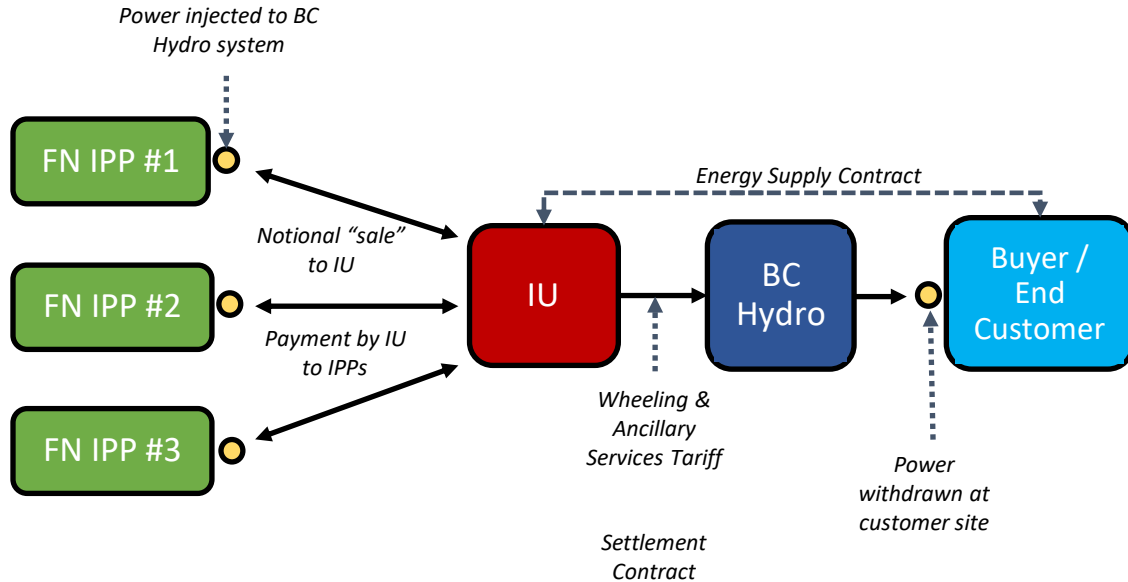
How Would Model 2 Work

- BC would need, likely by policy and Order in Council, to create certain “special rights” that would be available only to First Nations Utilities
- These could include a call carve out, and the right to “virtual retail access” - the ability to move power around the BC Hydro system and sell it to end-users or other utilities.
- The requirements to be a First Nations Utility could be highly flexible, allowing maximum creativity at the Band level
- As owners of these “special rights”, First Nation Utilities would enjoy a unique economic opportunity, to which capital and expertise would flow.

Recap



Indigenous Utility's role in the electricity sector



What Next?

- If this Model 2 concept is attractive, then the key is to design the special rights that:
- Are valuable enough to unlock opportunity and draw in capital and expertise...
- But are simple enough and affordable enough that government and BC Hydro can implement them easily
- (this sounds fairly easy, but involves some pretty sophisticated system and economic modelling work)
- Also need to think about the criteria to qualify as a First Nations utility
- Need to determine the policy, legal, and regulatory changes that need to be put in place to make it all work

Challenges in BC

- For the reasons we have discussed, diesel replacement lines like the Wataynikaneyap or edge-of-the-system industry-connection lines might be particularly attractive.
- The opportunities here are very case specific, and should be explored to determine if there are adequate load concentrations to justify the very high cost of building transmission lines in BC (rough terrain and huge distances between loads)
- In general, the economics are very challenging, but will depend in large part on government's climate actions -- a much higher expected carbon price or emissions mandates can improve the economics significantly.