

Utilities Backgrounder

The regulation of energy utilities in B.C.

Energy utilities are currently regulated by the British Columbia Utility Commission (BCUC) under the Utility Commission Act (UCA) with some exclusions. Under the UCA, in B.C. owning or operating equipment or facilities for “the production, generation, storage, transmission, sale, delivery or provision of electricity, natural gas, steam or any other agent for the production of light, heat, cold or power to or for the public or a corporation for compensation” is defined as a “public utility” and is subject to regulation by the BCUC in accordance with the UCA.

Municipalities or regional districts providing these services within their own boundaries and a person providing these services to an employee or a tenant are examples of exclusions by the UCA from the definition of a “public utility”.

A public utility must follow several requirements under the UCA, such as: receiving approval for the construction of new projects, providing information to the BCUC when requested, not discriminating between customers, and receiving approval for rates charged to customers.

Regulation of First Nations utilities

Unless an exemption is provided, an energy utility owned or operated by a First Nation that meets the definition of “public utility” may be subject to the same regulatory obligations that other public utilities meet under the UCA.

In March 2019, the Government of British Columbia directed the BCUC to conduct an inquiry respecting the regulation of Indigenous utilities (Inquiry). This direction came following the BCUC decision on the 2016 application from a First Nation that denied the request for an exemption from Part 3 of the UCA to provide utility services to a proposed residential development on its reserve. The BCUC decision raised questions as to whether an Indigenous-led utility ought to be regulated differently under the UCA, and if special provisions may be required. As a part of the inquiry, the BCUC was tasked with providing recommendations on the defining characteristics of Indigenous utilities, whether regulation was necessary, and if so, what is the appropriate nature and scope of regulation.

The [Indigenous Utilities Regulation Inquiry Final Report](#), submitted to government in April 2020 by the BCUC, highlighted that many First Nations view utility ownership as an avenue for promoting economic development on their lands, including through creating local employment and attracting commercial enterprises to communities, and that revenues could contribute to broader community objectives.



The Final Report made several recommendations reflecting the interests of many First Nation participants in the Inquiry to regulate and operate their own energy utilities, as an important step toward achieving economic and political self-determination and reconciliation between the provincial government and First Nations. The BCUC's considerations included jurisdiction of land, principles and guidelines of economic regulation, minimum safeguards of a regulatory scheme, the application of Indigenous governance, and the impact to incumbent utilities.

Future recommendations regarding regulating First Nations utilities

As reflected in Action 4.43 of the Declaration Act Action Plan, the Ministry of Energy and Climate Solutions will co-develop recommendations for strategic policies and initiatives, including identifying and supporting First Nations-led clean energy opportunities related to the BCUC Inquiry on the Regulation of Indigenous Utilities. The First Nations Clean Energy Opportunities initiative committed to consider the interest of First Nations and Inquiry recommendations to jointly develop recommendations for a proposed regulatory framework for First Nations utilities.