


PROVINCE OF BRITISH COLUMBIA
ORDER OF THE MINISTER OF ENERGY, MINES
AND PETROLEUM RESOURCES

Utilities Commission Act

Ministerial Order No. M 368

I, Bruce Ralston, Acting Minister of Energy, Mines and Petroleum Resources, order that pursuant to section 88 (3) of the *Utilities Commission Act*, approval is given to the British Columbia Utilities Commission to make the exemptions from the indicated provisions of the *Utilities Commission Act* subject to the criteria set out in the attached draft order of the British Columbia Utilities Commission.

September 13, 2018
Date



Acting Minister of Energy, Mines and
Petroleum Resources

(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, s. 88 (3)

Other: _____

Proposed Draft Order of the British Columbia Utilities Commission

ORDER NUMBER

G-xx-xx

IN THE MATTER OF

the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

A Class Exemption Pursuant to Section 88(3) of the *Utilities Commission Act*
for British Columbia Hydro and Power Customers that Resell Electricity
under Certain Lease Arrangements

BEFORE:

Panel

Chair/Commissioner

Commissioner

Commissioner

on [Date]

DRAFT ORDER

WHEREAS:

- A. On September 27, 2016, Shape Property Management Corp. (Shape Property Management) filed an application with the British Columbia Utilities Commission (BCUC) for an exemption from Part 3 of the *Utilities Commission Act* (UCA) with respect to the resale of metered electricity to tenants with leases longer than five years, for three developments, all located at 3122 Mt Lehman Road, Abbotsford;
- B. Under the UCA, certain entities that lease out commercial properties for more than five years (Lessors) to commercial tenants (Lessees) can be, by definition of the UCA, a public utility;
- C. On October 26, 2007, by Order G-130-07, the BCUC approved the British Columbia Hydro and Power Authority (BC Hydro) Electric Tariff Terms and Conditions for the Resale of Electricity. Subsection 9.2. of the BC Hydro Electric Tariff Terms and Conditions states:

If a Customer wishes to sell Electricity which the Customer has purchased from BC Hydro to a tenant of that Customer on the same Premises on a metered basis, then the Customer shall agree that the selling price for such Electricity shall not exceed the price which BC Hydro would have charged had that tenant been a Customer of BC Hydro. This requirement shall be included in an agreement for resale between BC Hydro and the Customer;
- D. On August 4, 2015, By Order G-131-15, the BCUC, with advanced approval from the Lieutenant Governor in Council, ordered that Templeton Designer Outlet Centre Limited Partnership (Templeton LP) be exempt from Part 3 of the UCA except for sections 25, 38, 41 and 42, for the purpose of resale of electricity to its lessees, with a term exceeding five years, at the Regional Designer Outlet Centre located at Vancouver International Airport in Richmond, British Columbia. The order also exempted both Templeton LP and its

tenant lessees, provided that the lessees are not reselling electricity, from section 71 of the UCA (collectively, Templeton LP Exemption). These exemptions were conditional on Templeton LP's compliance with the BC Hydro Electric Tariff Terms and Conditions for the Resale of Electricity. The Templeton LP Exemption remains in effect until the BCUC, after conducting a hearing, orders the exemption no longer applies;

- E. On December 15, 2016, by way of Order G-191-16, the BCUC initiated a proceeding to consider a class of exemption cases pursuant to section 88(1) and 88(3) of the UCA for all BC Hydro customers with lease arrangements, where the Lessor, not otherwise a public utility, provides electricity only to the Lessee, where the lease period is greater than five years, if the service or commodity is not resold to or used by others and meets the criteria of BC Hydro Electric Tariff Terms and Conditions for the Resale of Electricity and where all other requirements of the UCA are met;
- F. On January 20 and March 31, 2017, following Orders G-191-16 and G-38-17, the BCUC received comments from the registered interveners on the proposed exemption;
- G. By Ministerial Order XXX dated XXX and the attached Appendix XX to this order, the Minister responsible for the administration of the Hydro and Power Authority Act granted advance approval to the BCUC for the proposed exemption;
- H. The BCUC has considered the information and finds that a class exemption is warranted and in the public interest.

NOW THEREFORE the British Columbia Utilities Commission orders as follows:

1. Pursuant to sections 88(1) and 88(3) of the *Utilities Commission Act* (UCA), the BCUC, having been granted advance approval by the Minister responsible for the administration of the *Hydro and Power Authority Act*, effective the date of this order, exempts, in any case meeting the criteria of the class of cases described in Directive 2:
 - a) the lessor from section 71 and Part 3 of the UCA except for sections 25, 38, 41 and 42, and
 - b) the lessee from section 71 of the UCA.
2. The exemptions outlined in Directive 1 apply to the class of cases that meet all of the following criteria:
 - a) a lessor provides electricity purchased from British Columbia Hydro and Power Authority (BC Hydro) to a lessee at a cost that does not exceed what BC Hydro would have charged for the electricity had the lessee been a customer of BC Hydro;
 - b) the term of the lease arrangement between the lessor and lessee is greater than five years;
 - c) the lessor is not otherwise a public utility;
 - d) the electricity provided by the lessor is not resold by the lessee;
 - e) both the lessor and lessee comply with any applicable provisions of the BC Hydro Electric Tariff and Terms and Conditions, as amended from time to time;
 - f) the lessor registers as an exempt public utility by submitting a letter to the BCUC indicating the lessor's name, physical location of the lessor's operations and the approximate number of tenants of the lessor; and

g) the lessor and lessee meet all other requirements of the UCA.

3. The exemptions referred to in Directive 1 of this order remain in effect until the BCUC, after conducting a hearing, orders that the exemption no longer applies.

DATED at the City of Vancouver, in the Province of British Columbia, this [XX] day of [Month Year].

BY ORDER

[Name]
Commissioner