

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 23

, Approved and Ordered January 16, 2015


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 approval is given to the British Columbia Utilities Commission to make the exemptions from the indicated provisions of the *Utilities Commission Act* as set out in the attached draft order of the British Columbia Utilities Commission.



Attorney General and Minister of Justice



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, RSBC 1996, c. 473, s. 88 (3)

Other: _____

June 9, 2014



BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER

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IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

Vancouver Renewable Energy Cooperative
Application for Exemption from Regulation as a Public Utility
for Leased Solar or Wind Energy Systems under \$500,000

BEFORE: XXXXXXX, Commissioner
XXXXXXXX, Commissioner [Date]
XXXXXXXX, Commissioner
XXXXXXXX, Commissioner

O R D E R

WHEREAS:

- A. On December 27, 2012, the British Columbia Utilities Commission (Commission) issued its Report on the Inquiry into the Offering of Products and Services in Alternative Energy Solutions and Other New Initiatives (AES Inquiry Report);
- B. In the AES Inquiry Report, the Commission recommends the use of exemptions, which are contemplated under the *Utilities Commission Act* (UCA), where the Commission finds regulation is not warranted;
- C. The UCA defines a public utility as "a person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in British Columbia, equipment or facilities for (a) 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...";
- D. On February 12, 2014, Vancouver Renewable Energy Cooperative (VREC) applied to the Commission for an exemption from the provisions of Part 3 of the UCA for persons who are not otherwise a public utility and their equipment, projects or systems that would be leased to a British Columbia Hydro and Power Authority (BC Hydro) customer under the BC Hydro Net Metering program (Rate Schedule (RS) 1289) using technologies, which fall within the definition of "clean or renewable resource" in the *Clean Energy Act*. Under the lease terms VREC would install, own and maintain the equipment for the generation and provision of electricity to the public or corporation with compensation by way of lease payments based on energy delivered from the equipment;

- E. Subsection 88(1) of the UCA allows the Commission to make an order, rule or regulation apply to all cases, or to a particular case or class of cases or to a particular person;
- F. Subsection 88(3) of the UCA provides that the Commission may, with the advance approval of the Lieutenant Governor in Council (LGIC), on conditions it considers advisable, exempt a person, equipment or facilities from the application of all or any of the provisions of the UCA or may limit or vary the application of the UCA;
- G. The Commission considers that access to clean and renewable energy sources whether grid connected or for provision of electricity on a stand-alone basis is in alignment with British Columbia's energy objectives as outlined in the *Clean Energy Act*, specifically subsections 2 (a), (c), (d), (h) and (i) by enabling electricity self-sufficiency, diversification of electricity supply and facilitating the use of clean, renewable energy by providing buyers the means to obtain, install and utilize solar and wind energy systems;
- H. The Commission has considered the Application and recognizes that VREC's lessees would be ineligible for participation in the current BC Hydro Net Metering program as outlined in clause (c) in the Availability section of RS 1289. However, the Commission is satisfied that exempting persons, who are not otherwise a public utility, offering solar or wind energy equipment or facilities leased for the provision of electricity properly conserves the public interest. Furthermore, the Commission recognizes that clause (c) in RS 1289 may be amended in the future to foster increased participation in the BC Hydro Net Metering program by granting eligibility to lessees;
- I. The Commission considers that the exemption should include that class of cases where a person, not otherwise a public utility, offers lease agreements or energy supply contracts providing lessees or buyers with solar or wind energy systems or facilities, that could otherwise be purchased on the open market, provided that the value of the installed system including equipment, labour and permits, does not exceed \$500,000; and
- J. By Order in Council No. [•], dated [mm/dd/yy], and attached as Appendix A to this Order, the LGIC grants advance approval to the Commission to exempt from Part 3 and section 71 of the UCA a person who is not otherwise a public utility and who offers lease agreements or energy supply contracts providing lessees or buyers with solar or wind energy systems provided that the value of the installed system, including equipment, labour and permits, does not exceed \$500,000.

NOW THEREFORE pursuant to subsections 88(1) and 88(3) of the *Utilities Commission Act*, the British Columbia Utilities Commission orders as follows:

1. Subject to Directive 2 of this Order, a person not otherwise a public utility, who offers lease agreements or energy supply contracts which provide lessees or buyers respectively with electricity from either solar or wind energy systems or facilities is exempt from Part 3 and section 71 of the *Utilities Commission Act*.

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2. The exemption of a person referred to in Directive 1 of this Order only applies to that person if the value of the installed system, including equipment, labour and permits, does not exceed \$500,000.
3. A buyer receiving electricity delivered through an energy supply contract referred to in Directive 1 of this Order is exempt from section 71 of the *Utilities Commission Act*.
4. The exemption of a person referred to in this Order will remain in effect until the Commission, after a hearing on its own motion or after a hearing on a complaint by an interested party for which sufficient notice has been given to the persons the Commission believes may be affected, orders that the exemption no longer applies to that person.
5. The Commission directs the persons exempted from Part 3 of the *Utilities Commission Act* by this Order are responsible for the safe and proper operations of the systems consistent with the requirements of the regulations of the *Safety Standards Act*.

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

BY ORDER

XXXX
Commissioner

Attachment

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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 approval is given to the British Columbia Utilities Commission to exempt from Part 3 and section 71 of the *Utilities Commission Act*, the class of cases where a person, who is not otherwise a public utility, offers lease agreements or energy supply contracts providing lessees or buyers with electricity from either solar or wind energy systems or facilities provided that the value of the installed system, including equipment, labour and permits, does not exceed \$500,000. This order also includes an approval given to the British Columbia Utilities Commission to exempt from section 71 of the *Utilities Commission Act* the buyers of electricity under an energy supply contract specific to this class of cases.