



**ORDER NUMBER
G-191-16**

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

Class Exemption for BC Hydro Customers that Resell Electricity
Under Certain Lease Arrangements

BEFORE:

D.M. Morton, Panel Chair/Commissioner

on December 15, 2016

ORDER

WHEREAS:

- A. On September 27, 2016, Shape Property Management Corp. (Shape Property Management) filed an application with the British Columbia Utilities Commission (Commission) 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 Commission approved the British Columbia Power and Hydro 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 Commission, 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. Also, the Commission Order 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 Commission, after conducting a hearing, orders the exemption no longer applies;

- E. The Commission finds, in relation to the Shape Property Management application and the Templeton LP Exemption, it to be warranted and in the public interest to initiate a proceeding to consider whether a class exemption is appropriate.

NOW THEREFORE the British Columbia Utilities Commission, pursuant to section 82 and 88(1) of the *Utilities Commission Act*, orders as follows:

1. A proceeding is initiated to consider a class exemption pursuant to sections 88(1) and 88(3) of the *Utilities Commission Act* 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 the BC Hydro Electric Tariff Terms and Conditions for the Resale of Electricity and where all other requirements of the *Utilities Commission Act* are met.
2. A Regulatory Timetable is established, as set out in Appendix A to this Order, and includes written submissions from registered interveners. In the submissions, interveners are to provide comments on the draft exemption, as set out in Appendix B to this Order, and address the following three questions:
 - 1) Should this proposed class exemption be granted?
 - 2) If so, are the terms and conditions proposed in the draft exemption order satisfactory?
 - 3) Should any further regulatory process be held to consider this matter and why? And if so, what process should be held?
3. Intervenors who wish to participate in the regulatory proceeding are to register with the Commission by completing a Request to Intervene Form, available on the Commission's website at <http://www.bcuc.com/Registration-Intervener-1.aspx>, by the date established in the Regulatory Timetable attached as Appendix A to this Order and in accordance with the Commission's Rules of Practice and Procedure.
4. Members of the public are invited to provide letters of comment on the Commission's consideration for exemption of a class of cases pursuant to sections 88(3) and 88(1) of the UCA, to the Commission by the date established in the Regulatory Timetable attached as Appendix A to this Order. Letters of comment must be in the Letter of Comment Form available on the Commission's website at <http://www.bcuc.com/Register-Letter-of-Comment.aspx>, and submitted by email to commission.secretary@bcuc.com or by mail, courier or personal delivery to the British Columbia Utilities Commission, Sixth Floor, 900 Howe Street, Vancouver, BC, V6Z 2N3.

DATED at the City of Vancouver, in the Province of British Columbia, this 15th day of December, 2016.

BY ORDER

Original Signed by:

D.M Morton
Commissioner

Attachment: Yes

Class Exemption for BC Hydro Customers that Resell Electricity
Under Certain Lease Arrangements

REGULATORY TIMETABLE

ACTION	DATE (2016-17)
BCUC Public Notice	As soon as possible
Intervener registration	Friday, January 13
Intervener submissions, pursuant to Directive 2 of this order, and letters of comment	Friday, January 20
Further process, if any	To be determined

ORDER NUMBER
G-xx-xx

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

Class Exemption for BC Hydro Customers that Resell Electricity
Under Certain Lease Arrangements

BEFORE:

Commissioner
Commissioner
Commissioner

XXX

ORDER

WHEREAS:

- A. On September 27, 2016, Shape Property Management Corp. (Shape Property Management). filed an application with the British Columbia Utilities Commission (Commission) for an exemption from the application of 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 Commission approved the British Columbia Power and Hydro 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 Commission, 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 of exceeding five years, at the Regional Designer Outlet Centre located at Vancouver International Airport in Richmond, British Columbia. Also, the Commission Order 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 Commission, after conducting a hearing, orders the exemption no longer applies;

- E. On XX, by Order XX, the Commission initiated a proceeding to consider a class exemption 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 Condition for the Resale of Electricity and where all other requirements of the UCA are met;
- F. 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 Commission for the proposed exemption;
- G. The Commission 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 (3) of the *Utilities Commission Act (UCA)*, the Commission, 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:
 - a. Exempts from section 71 and Part 3 of the UCA except for sections 25, 38, 41 and 42, 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 the BC Hydro Electric Tariff and Terms and Condition for the Resale of Electricity and where all other requirements of the UCA are met.
 - b. Exempts from section 71 of the UCA, all lessees of lessors exempted in directive 1(a) if they do not resell electricity
 - c. The exemptions are subject to the conditions contained in Directive 2 of this order.
- 2. Pursuant to section 83 of the UCA, the exemption referred to in Directive 1 of this order remains in effect until the Commission, after conducting a hearing on its own motion, or after a hearing on a complaint by an interested person for which sufficient notice has been given to the persons the Commission believes may be affected, 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

(X. X. last name)
Commissioner