



January 29, 2021

The First Nations Energy and Mining Council (FNEMC) is pleased to provide this report to BC Hydro on its Integrated Resource Plan. The report focuses on actions to involve First Nations in hydro's IRP, while adhering to the new legal standard of The United Declaration on the Rights of Indigenous People's.

FNEMC is regularly engaged with provincial government officials, provincial First Nations leadership, industry representatives, and individual groups and members around the province. Through that engagement, it works to develop a thorough understanding of common issues and concerns relating to energy issues and to represent those fairly to government and its agencies – in this case, BC Hydro.

Consistent with terms of a 2010 agreement with Hydro, FNEMC has participated throughout the IRP process in its regionally hosted webinars in 2020.

As indicated in our previous reports, FNEMC's participation in the process has been intended to provide a First Nations perspective on general or province-wide issues, to provide support and advice to participating First Nations, and to represent and give voice to certain issues on behalf of the many First Nations who for whatever reasons were not able to participate directly. FNEMC involvement has been to supplement, but not to bind, replace or displace in any way the views and rights of individual First Nations. Lastly, the views expressed here reflect FNEMC views based largely on what we have heard and learned through participation in the Hydro process and through other First Nations discussions.

The report is necessarily a summary of key issues only; we recognize there are different priorities and perspectives among First Nations just as among other stakeholders and the public. We do not suggest that the report captures or includes all of those.

FNEMC will be hosting a series of webinars in early 2021 to garner feedback on various topics relating to Impact Assessment, of which will further lend additional support to provincial and federal agencies wishing to fully understand how the newly enacted UNDIP legislation will impact future operations.



Report to BC Hydro on the Draft Integrated Resource Plan

January 29, 2021

Introduction:

Clean Power 2040, is BC Hydro's province-wide, long-term resource planning process. BC Hydro's Integrated Resource Plan is a long-term (20 year) plan for the power system to ensure future customer electricity needs are met with clean, reliable and affordable power. The plan is expected to be submitted to the British Columbia Utilities Commission in late 2021.

BC forecasts to have enough power to meet needs for at least the next 10 years, which means immediate focus is on whether to continue with or make changes to existing programs and whether to renew electricity purchase agreements with Independent Power Producers as they expire.

Other issues include what to do with some of the smaller hydroelectric facilities that are reaching end-of-life. In the later 10 years of the plan, BC may need additional electricity. Acquiring or building new resources, expanding existing infrastructure, and introducing optional time-varying rates are some of options that are being considered.

The British Columbia First Nations Energy and Mining Council, in accordance with their agreement with BC Hydro attended the Indigenous Integrated Resource Planning Webinar Workshops, and have prepared this report for BC Hydro's consideration.

The United Nations Declaration on the Rights of Indigenous People's (UNDRIP)

British Columbia has a vast electric system, which has benefited the province and its citizens for almost a century. That infrastructure and its associated programs was in most cases built upon un-ceded traditional and ancestral Indigenous territory and during an era of minimal Indigenous consultation and consent

Fast forward to 2020 in British Columbia, we are in a new era of constitutionally recognized law integrating the UNDRIP, of which BC Hydro must devolve from its historical practices of planning for the future with a new approach. The mandate letter to BC Hydro, stipulates that public service institutions and its representatives are to implement UNDRIP and the TRC calls to action.

FNEMC recommends BC Hydro recognize, support and implement UNDRIP by incorporating the comments heard from the Indigenous participants in their IRP webinars, despite any inconvenience, negative economic or financial challenges it may present as these are in many cases in-alienable rights, not just business and customer needs. Some material presented by BC Hydro during the workshops suggested that supporting reconciliation with Indigenous people is one of many planning objectives that should be considered. Feedback at the workshops was clear that reconciliation is not something that can be traded against other planning objectives. Section 3 of the Declaration Act stipulates in no uncertain terms that the BC government take all measures necessary to ensure the laws of British Columbia are consistent with the UN declaration.²

It was clearly heard that more information is needed on BC Hydro's mandate to implement UNDRIP, including the requested action plan from the BCUC final report. Some important articles from the UNDRIP are listed below that effect B.C Hydro's decision as a Crown Corporation that must be legally respected, not just considered and set aside.

Articles: 3, 4, 5, 19, 23, 26, 28, 29 and 32.

Past and Current Infringements

Many First Nations in the province have serious long-standing grievances with respect to infringements of their lands and rights resulting from previous or existing Hydro activities and facilities. Some have raised these issues in the IRP, BCUC inquiry, recent FNLC communiqués as well as the current legislative process to change the Clean Energy Act under bill 17, noting that it is unreasonable and unacceptable for Hydro to seek support for future actions before addressing outstanding grievances particularly in respect to UNDRIP. FNEMC submits that Hydro and government need to take a pro-active approach to resolving this problem before they can reasonably expect support from affected FNs for new initiatives.

Conservation and Energy Efficiency Programs

BC Power smart programs can help residential, business and industrial customers reduce their electricity use and save on their bills, while also being an effective way defer the need for new supply. BC can continue with programs as they currently are, reduce or discontinue offers, or add new options and increase incentives to achieve more savings.

¹ Hydro IRP Webinar November 27, Danielle Van Huizon + BCUC Final Report + Feb 21 Mandate letter to BCH.

² <http://fns.bc.ca/news/first-nations-leadership-council-requests-that-bc-withdraw-bill-17-clean-energy-amendment-act-2020>

Recommendation:

FNEMC is supportive of energy efficiency programs as long as they are in accordance with UNDRIP. Increased support, funding and awareness for the net metering program in Indigenous communities is of interest for reducing the dependence on BC Hydro rates, and the possible ability for revenue generation.

FNEMC believes special attention is required to ensure energy efficiency programs provide adequate opportunities for participation by First Nations in consideration of their historical relationships with BC Hydro and the Government of British Columbia.

FNEMC believes it will be necessary to develop programs in collaboration with First Nations to address their specific requirements as a result of housing and other infrastructure needs facing First Nations.

Time Varying Rates

Many utilities outside B.C. use time-varying rates to help shift electricity use away from peak demand times by offering a lower rate for using power at off-peak times, and a higher rate for electricity used during peak times.

Recommendation:

FNEMC supports time varying rates provided that implementation of the various measures is based on incentives rather than penalties, that program design takes into account the circumstances of rural and off-grid First Nation communities, recognizes the need for business and economic development on First Nation lands, and ensures accessibility for lower and fixed income people – a too common circumstance for many FN members. First Nations should be directly engaged in program design and delivery. All measures must be in accordance with UNDRIP.

Implementing Voluntary Electricity Demand Response Programs

New technology can manage space and water heating and electric vehicle charging on your behalf, which can help shift your electricity use to off-peak times. An example of demand response could be shifting the heating of a hot water tank to earlier in the day or later in the evening. Demand response can be encouraged through a program designed to support customers' ability to reduce or shift the use of electricity and usually involves either an incentive or a specific rate.

Recommendation:

FNEMC supports implementing voluntary electricity demand response programs so long as the various measures are aligned with UNDRIP and take into consideration the caveats mentioned above. Supportive funding for Indigenous communities would benefit this endeavor.

Electricity Purchase Agreement (EPA) Contracts with Independent Power Producers (IPP's)

Around 25% of BC power generation is purchased from Independent Power Producers in the province, which provide BC with additional clean, renewable energy. A number of these contracts are expiring in the next few years and we must decide if we should renew

them. When making these decisions we must consider a number of factors, including cost, the location of the facility, and its ability to generate electricity during peak demand periods.

Recommendations:

The FNEMC and many First Nations are supportive of clean energy and privately owned and developed generation. Both are subjects of great interest, a number of communities still being off-grid and dependent on diesel generation, and many also looking at development possibilities to provide additional local economic benefits. Some important conditions are essential to First Nations:

- Indigenous IPPs should be renewed and opportunities for new Indigenous IPPs should be allowed. Indigenous EPA purchasing offers should be renewed regardless if the standing offer isn't renewed for non-indigenous IPP's as those EPA's and desire to be IPP's are linked to UNDRIP.
- Self Sufficiency should not be changed in the Clean Energy Act as it affects UNDRIP and IPP's and EPA's in BC.
- First Nations need to be afforded opportunities to be full participants in the procurement process and future projects, including the possibility of a preferential call for First Nations owned power projects.
- First Nations rights and title interests must be fully respected. Unused water rights or licenses from past calls should revert back to the province or to local First Nations.
- Many First Nations have invested heavily, have aspired to achieve or have shovel ready projects as IPP's. Cancellation of the renewal of EPA's with First Nations would be detrimental and would be in conflict with UNDRIP.

End of Life Infrastructure

Five of BC's small hydro plants built 50 to 70 years ago are reaching end of life and it must be decided what to do with each of them. This could include redeveloping, temporarily or permanently shutting down the facility, or selling the facility. When deciding what to do with each, BC Hydro takes into account a number of factors, including cost, safety, environmental impacts, and system reliability.

Recommendations:

- The creation of an Indigenous utility should be discussed in greater depth to power Indigenous communities, with ability to sell to the grid (abolish ban on retail access to grid infrastructure for Indigenous IPP or Indigenous utilities)³⁴ Transfer of ownership for end of life infrastructure to an Indigenous Utility is a concept that was welcomed.

³ <https://thenarwhal.ca/bill-17-bc-clean-energy/>

⁴ https://www.bcuc.com/Documents/Proceedings/2019/DOC_56154_2019-11-01-BCUC-IUR-Inquiry-Draft-Report.pdf

- Dismantling of certain dams and restoration of fish habitat and stocks of interest to some.
- Upgrading dated infrastructure is ideal where possible to minimize footprint.
- Transfer of ownership to First Nations is of interest for some First Nations for both self-sufficiency as well as economic purposes. Once again, the EPA's standing offer needs to be restored for some of these decisions to be considered.
- Hydro projects should have an environmental assessment to plan and fund for end of life infrastructure.

New Power Sources:

To meet customer needs beyond the next ten years, BC will need to add power supply and fill the expected capacity and energy gaps. To help with this, BC is analyzing options, which could include:

- Looking at ways that new technology, such as utility-scale batteries and pumped storage could help to store electricity for when customers need it.
- Upgrading existing system, including expanding some the larger facilities, like adding an additional generating unit at the Revelstoke Generating Station, and upgrading our power lines to help meet demand from customers.
- The plan will have a 20-year outlook and include potential projects and the timing of those projects, which will each have separate consultation and approval processes.

Recommendations:

- FNEMC supports new power sources such as batteries and pumped storage so long as they are aligned with UNDRIP.
- Clean energy and self sufficiency should not be redefined in the Clean Energy Act as it affects UNDRIP.
- Any expansion involving clearing or brushing, should be done with manual labor, not pesticide.
- Global warming is melting ice, drying rivers and soon there may be no water to dam. Renewable clean energies are of interest for research and application possibilities.
- EPA standing offer should be renewed in order for Indigenous communities to take economic advantage of the power producing resources in their territories if available, while filling BC's power needs.

Exclusions

Revenue Sharing:

FNEMC and other participants commented in 2011 on the need for Hydro and the province to adopt new ownership and revenue policies to permit and facilitate First Nations participation in major energy projects. In addition to early engagement of First Nations in the planning process as noted above, we see equity and revenue-sharing policies, now adopted in several other jurisdictions and widely used by industry in various sectors of the economy, being key to First Nations economic and social

development, and to local or regional support for major projects. It is clear that major developments can and often do have significant adverse impacts on the local environment and First Nations lifestyles, while offering the majority of benefits to customers or shareholders far distant from those impacts. Yet government and Hydro continue a very restrictive and conventional approach to resolution and mitigation; it is disappointing that more progressive and inclusive concepts do not appear to be even referenced in the IRP documents. They are needed if government and Hydro are genuinely committed to improving First Nations relations, and if the IRP, when completed or approved, is to receive broad acceptance and support for implementation.

Revenue sharing opportunities should not be limited to IPP projects. BC Hydro and the Government of British Columbia should be looking at revenue sharing for transmission and distribution infrastructure and the creation of Indigenous utilities.

Export/Import Market Development:

FNEMC and many First Nations expressed serious concerns in 2011 with government direction and proposals to pursue expanded exports. Most recent Hydro analysis indicates insufficient market opportunities for the foreseeable future, yet the legislative bill 17 proposed to alter the definition of clean energy opening the door to heavy imported “clean” energy. It remains our view that domestic needs, production, self-sufficiency reasonable pricing, clean energy and GHG emission targets should all continue to receive higher priority than future import/export possibilities.

Energy Planning from a First Nations Perspective:

Hydro has acknowledged in documents and First Nations presentations that it did not adopt 2011 submissions from FNs and the FNEMC that First Nations rights and title to traditional territory in the province be considered as a fundamental basis on which to plan future generation and transmission requirements. Hydro has argued in effect that as the IRP is to be a province-wide plan, it is not feasible to build it based on FN territorial or other local priorities. The FNEMC does not accept that argument. In our view, it is entirely possible for Hydro and the province to initiate planning first from a local or regional perspective and to build on those to form provincial plans and policy. Certainly, a combination of regional and province-wide approach is feasible. We believe that FN legal interests must be fully considered and incorporated at the outset of planning rather than at the end; First Nations and related regional land-use plans in the province should be a priority for completion; comprehensive cumulative effects assessments must be undertaken and carried forward. Taking these steps would unquestionably reduce future conflicts, increase First Nations access and interest in participation in energy development opportunities, enhance support for the IRP, and facilitate future Hydro-First Nation cooperation on other issues.

Uncertainties

Forest fires and line system integration:

Indigenous people in BC are in the best position to respond to forest fires, fire management, and monitoring of those fires effect on hydro infrastructure. BC Hydro should consider an Indigenous monitoring system.

Post-pandemic Industrial and Commercial Rebound Effect on Hydro Demand:

It is unknown at this time what the post pandemic effect will have on the return to normal power draws.

Hydrogen Integration:

Hydrogen technology interest and application is taking off globally, and is of keen interest to Indigenous peoples in BC. If there are any plans to introduce and integrate hydrogen, then Indigenous people's need to have full involvement in deliberations from the earliest conceptions.