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First Nations Energy and Mining Council
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Introduction

BC Hydro is preparing its next Integrated Resource Plan (IRP) to be published late in 2021. The IRP is BC Hydro's plan for obtaining the resources necessary to meet provincial electricity requirements for the next 20 years. The IRP includes several components: A load forecast, which estimates how much electricity British Columbia will require over the next 20 years; conservation initiatives BC Hydro could pursue with its customers to reduce the amount of electricity that must be supplied; and an evaluation of generation and transmission resources that could be acquired to meet the gap between existing resources and those required to serve future load growth.

As part of the IRP process, BC Hydro established a Technical Advisory Committee (TAC). The purpose of the TAC is to provide ongoing feedback and expert advice to BC Hydro during the development of the IRP. BC Hydro has committed to considering input and advice from TAC members in developing the IRP. However, BC Hydro is not bound by recommendations or advice it receives from TAC members.

BC Hydro requested that the BC First Nations Energy and Mining Council (FNEMC) participate as a member of the Technical Advisory Committee (TAC). This report summarizes interim perspectives based on TAC meetings to date. The report is organized to respond to specific topic areas outlined in BC Hydro's public input survey.

Section 1 – Planning Objectives (slide 7)

BC Hydro's IRP process requires balancing a number of different objectives including environmental sustainability, energy costs and economic growth. The FNEMC agrees these are important considerations but does not believe these planning objectives can be usefully or meaningfully ranked against each other.

Further, reconciliation with Indigenous Nations is a requirement under the *Declaration on the Rights of Indigenous Peoples Act*, it is not something BC Hydro and the Province of BC can trade-off against keeping costs down for customers. In particular, the FNEMC notes article 28 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) states:

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.¹

Article 32 of UNDRIP states:

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to

¹ Article 28. United Nations Declaration on the Rights of Indigenous Peoples. Available: https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf Accessed: January 27, 2021.

mitigate adverse environmental, economic, social, cultural or spiritual impact.²

The FNEMC is also of the view that BC Hydro's IRP process should consider a number of the calls to action of the Truth and Reconciliation Commission in particular:

92. We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:

- i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.
- ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
- iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.³

Indigenous Nations in British Columbia have a long history of experiencing the impacts of electricity development in their territories, including generation, transmission and distribution projects. The FNEMC believes BC Hydro must plan its system in a manner that implements reconciliation and minimizes impacts on land, air and water. Equitable economic growth and affordable rates for customers must be achieved within that context.

Implementing reconciliation means acknowledging the significant impacts of BC Hydro's legacy infrastructure and more equitably sharing revenue and other benefits with

² Article 28. United Nations Declaration on the Rights of Indigenous Peoples. Available: https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf Accessed: January 27, 2021.

³ Truth and Reconciliation Commission Calls to Action. Available: http://www.trc.ca/assets/pdf/Calls_to_Action_English2.pdf Accessed January 27, 2021.

Indigenous Nations, particularly those directly affected by generation, transmission and distribution infrastructure.

Section 2 – Planning For the Next 10 Years: 2020 to 2030 (slides 9-15)

Energy conservation (slide 9)

BC Hydro has operated energy conservation programs for many years. These programs help reduce energy consumption which can help customers manage their energy bills and allow BC Hydro to delay or avoid the need to add new energy infrastructure.

As stewards of the land, air and water, Indigenous Nations are committed to the responsible use of all resources to ensure their availability for future generations. Promoting and improving energy conservation and efficiency is consistent with core principles of the BC First Nations Energy Action Plan. Given the environmental benefits of improved energy conservation and efficiency, BC Hydro should pursue all economic conservation and efficiency program opportunities.

Energy security is a significant concern for Indigenous Nations. Housing quality, income levels and lack of access to lower cost sources of energy contribute to higher energy costs and fewer options to manage those costs.

Access to energy conservation initiatives is a challenge for many Indigenous communities – particularly those in rural and remote locations. The CleanBC strategy acknowledged that in the past, programs to support efficiency haven't always been available to Indigenous communities.⁴ BC Hydro needs to ensure its programs are accessible to all Indigenous communities and develop programs that meet their specific needs. Such programs must consider housing conditions and the challenges in obtaining funding or financing for new appliances and infrastructure. A 2020 report prepared by Ecotrust Canada found that programs designed to relieve energy poverty through energy efficiency have not achieved significant savings compared to rising electricity costs.⁵

The FNEMC believes energy efficiency planning for Indigenous Nations should be community led. This will require BC Hydro and the province to make investments in training and recruiting community energy specialists who understand the needs and priorities of each community. Specific energy conservation plans should be developed at the community level.

⁴ CleanBC. Page 17. Available:

https://blog.gov.bc.ca/app/uploads/sites/436/2019/02/CleanBC_Full_Report_Updated_Mar2019.pdf. Accessed January 24, 2021.

⁵ Ecotrust Canada. Moving toward energy security in British Columbia's rural, remote and Indigenous communities. March 2020. Available: https://ecotrust.ca/wp-content/uploads/2020/03/2019-EnergySecurity-Policy-Report_EC_final.pdf. Accessed, January 25, 2021.

Time-varying rates (slide 11)

The FNEMC understands time-varying rates can be used to provide a price signal to customers to avoid using energy during peak periods or shift loads to off-peak periods wherever possible. Reducing energy demand during peak periods can help delay the need to build new generation and transmission infrastructure and thereby reduce environmental impacts and lower costs. A review of Ontario's time-of-use rate structure by the Brattle Group found that even modest differences in prices between on-peak periods and off-peak periods can have a noticeable impact on energy demand at peak times.⁶

The FNEMC supports time-varying rate structures that are opt-in, where customers have a clear decision point to choose to subscribe to time-varying rates. Default rate structures (where customers are transitioned to a time-varying rate and need to actively opt-out) or mandatory time-varying rate structures require more consideration of their impacts on Indigenous communities. This is a common concern that rate structures developed for urban communities may not be as appropriate for more rural and remote communities. For example, a 2020 report prepared by Ecotrust noted that tiered rate structures may have different impacts on rural and Indigenous communities.⁷ Prior to implementing any default or mandatory time-varying rate structures, BC Hydro should undertake engagement with Indigenous Nations to ensure they are designed and implemented in a transparent way that considers the unique energy needs of Indigenous people.

Smart home technology and demand response (slides 12-13)

The FNEMC understands BC Hydro is exploring options to work with customers to install automated devices that help control electricity use in a home or building. These types of devices could assist customers by providing more personalized advice or incentives to help reduce costs and improve energy efficiency.

The FNEMC supports demand response technologies where their use is transparent and implemented with the express informed consent of customers. As with energy efficiency programs, BC Hydro should undertake engagement with Indigenous Nations to ensure they are designed and implemented in a transparent way that considers the unique energy needs and context of Indigenous people. These options should be pursued in the context of community-led energy efficiency plans.

⁶ Public Utilities Fortnightly. February 2017. Available:

http://files.brattle.com/files/7305_the_impact_of_time_of_use_rates_in_ontario.pdf. Accessed, January 20, 2021.

⁷ Ecotrust Canada. Moving toward energy security in British Columbia's rural, remote and Indigenous communities. March 2020. Available: https://ecotrust.ca/wp-content/uploads/2020/03/2019-EnergySecurity-Policy-Report_EC_final.pdf. Accessed, January 25, 2021.

Renewing electricity purchase agreements (EPAs) (slide 14)

BC Hydro indicates approximately 40 of its existing EPAs will expire in the next 10 years and another 30 will expire in the following 10 years. Currently BC Hydro anticipates having enough resources to meet BC's energy needs over the next 10 years and BC Hydro is deciding whether the expiring EPAs should be renewed, considering factors such as costs, location and the ability to generate during peak periods.

Participation in EPAs has been the primary mechanism available to Indigenous communities to participate in revenue sharing in the provincial electricity sector. FNEMC firmly believes these opportunities should not be curtailed. FNEMC recommends BC Hydro should implement two criteria for renewing existing EPAs:

1. Priority should be given to renewing existing EPAs with Indigenous ownership.
2. For existing EPAs without Indigenous ownership, BC Hydro should require the owners to obtain consent from the Indigenous Nations whose territories are affected by the development. BC Hydro should not renew EPAs where the owners cannot demonstrate consent from the relevant Indigenous Nations.

The second criterion, that owners obtain consent, is similar to the requirements for Land Act tenures for fish farm operators.⁸ This is also consistent with articles 28 and 32 of the UNDRIP that address the need to obtain consent from affected Indigenous Nations. BC Hydro should make a clear commitment to implement these criteria to enable Indigenous communities to plan with confidence that these EPAs will be renewed.

Small BC Hydro plants reaching end of life (slide 15)

BC Hydro indicates it has several smaller hydroelectric facilities that are reaching the end of their planned life. Redeveloping or upgrading these facilities could be more expensive than developing new resources.

Indigenous Nations have experienced and continue to experience environmental, economic, social and cultural impacts from the development of existing energy infrastructure in British Columbia. The FNEMC believes BC Hydro should undertake meaningful engagement with the Indigenous Nations where each of the facilities are located to understand their perspectives and preferences. This engagement should include exploring options for redeveloping the existing facilities through Indigenous partnerships or ownership and decommissioning the sites and returning them to as close to their pre-development state as possible.

⁸ See for example this backgrounder from BC Agriculture, Food and Fisheries. Available: <https://news.gov.bc.ca/releases/2018AGRI0046-001248>. Accessed, January 26, 2021.

Section 3 – Planning For the Next 20 Years: 2030 to 2040 (slides 16-24)

Opportunities for more customer involvement and introducing new local power sources (slides 16-20)

The FNEMC noted during the review of BC Hydro’s 2013 IRP that ownership interests for First Nations must be included as benefit options for new energy infrastructure.⁹ In a submission to the BCUC during the Indigenous Utilities Inquiry, the First Nations Major Projects Coalition identified a number of case studies illustrating Indigenous ownership models for transmission and distribution assets.¹⁰ The interim report for Phase 2 of the Comprehensive Review of BC Hydro notes the electricity sector delivery model is changing, as customers expect more choice in the way they meet their energy needs.

In fulfilling its commitments under the *Declaration on the Rights of Indigenous Peoples Act*, the provincial government and BC Hydro should be developing opportunities for Indigenous partnerships and ownership of assets throughout the supply chain, from generation to transmission to distribution to customer service and administrative functions. This should include opportunities related to battery or pumped hydro storage or non-wires services that may develop as the electricity sector continues to evolve. New local power sources should be planned and developed with local Nations.

It should also be noted that increased electrification, including expanding the penetration of electric vehicles, could increase provincial electricity requirements in the future. To the extent new generation resources are required in British Columbia, projects that include First Nation ownership and equity participation should be prioritized.

Upgrading BC Hydro system – expanding the Revelstoke Generating Station (slides 21-22)

BC Hydro indicates the main option available to increase capacity on its system is to add a sixth generating unit to the Revelstoke Generating Station. As noted above, the FNEMC believes BC Hydro and the province of BC should be developing opportunities for Indigenous Nation participation in the provincial energy sector and engaging in meaningful engagement with the Nations whose territories are affected by such projects. When assessing options to increase capacity on its system, BC Hydro should ensure meaningful opportunities for Indigenous Nation involvement, including revenue and benefit sharing, are provided for each option.

⁹ Summarized from page 12 of FNEMC submission to BC Hydro as part of the 2013 IRP process. October 2013.

¹⁰ Submission to the BCUC during the Indigenous Utilities Inquiry by the First Nations Major Project Coalition. Dated July 10, 2019.

Planning for uncertainty (slides 23-24)

BC Hydro indicates future demand could be higher or lower than forecast in the IRP. BC Hydro indicates it has some options to manage this uncertainty and has asked for participants to identify their priorities.

BC Hydro and the provincial government have made commitments under the *Declaration on the Rights of Indigenous Peoples Act*, that must be fulfilled independent of future electricity demand. Developing opportunities for Indigenous partnerships, ownership of assets and related benefits need to be pursued regardless of how electricity demand unfolds. BC Hydro should also continue to pursue appropriate energy efficiency programs, since these support the sustainable use of resources and can help respond to changes in electricity demand.

From a regional perspective, there are particular areas of uncertainty in the Northwest related to Kitimat LNG and potential mine loads and in the Northeast related to electrification of gas fields. These are significant planning issues that affect more than just the electricity sector. The BC government should be undertaking regional planning in these areas in collaboration with Indigenous Nations.

Section 4 – Closing Questions (slide 25)

The BC provincial government has made a number of legal and policy commitments to implementing reconciliation with Indigenous Nations. This includes the requirements of the *Declaration on the Rights of Indigenous Peoples Act* and provincial policy documents such as the CleanBC commitment to work in collaboration with Indigenous peoples to seize clean economy opportunities and help adapt to the impacts of climate change.

In particular, the following actions should be implemented in collaboration with Indigenous Nations:

1. Expand opportunities for Indigenous ownership, revenue and benefit sharing across all BC Hydro infrastructure and operations.
2. Implement community-led energy planning in collaboration with Indigenous Nations. This will require the province to invest in training and hiring Indigenous community energy specialists
3. Require informed consent from affected Indigenous Nations for all future developments, including redevelopments of existing infrastructure and renewal of existing EPAs.

BC Hydro's IRP provides an important opportunity to further the commitments made to Indigenous Nations in planning for the next several decades of provincial electricity needs.