

Blakes Bulletin

CleanTech/Environmental

Powering British Columbia's Future: The Clean Energy Act

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On April 28, 2010, the British Columbia (BC) government introduced Bill 17, the *Clean Energy Act* (the Act), into the legislature for its first reading. The Act provides a foundation to assist the province in achieving its goals of electricity self-sufficiency, job creation and reduced greenhouse gas (GHG) emissions. The Act builds on the work of the Green Energy Advisory Task Force, which was appointed in November 2009 to provide recommendations for a comprehensive clean energy development strategy in BC.

The proposed Act is designed to address three priority areas:

- ensuring electricity self-sufficiency at low rates;
- harnessing BC's clean power potential to create jobs in all regions of the province; and
- strengthening environmental stewardship and reducing GHG emissions.

The BC government's 2007 Energy Plan commits the province to electricity self-sufficiency by 2016. The Act facilitates this goal by providing a new regulatory framework for long-term electricity planning, commitments to renewable electricity generation, streamlined approval processes, and measures to promote electricity efficiency and conservation. It also strengthens protection for ratepayers with new measures to promote competitive rates and ensure the benefits from the province's "heritage generation assets" continue to flow to British Columbians.

Perhaps most significantly, the Act provides for the following:

- Inclusion of the export of electricity as an objective, thus enabling renewable power producers to work with BC Hydro to actively seek opportunities to sell clean, reliable electricity to other provinces and the U.S. New calls for clean power will be issued when export opportunities are secured.

- Exemption of certain energy projects from sections 45 to 47 and 71 of the *Utilities Commission Act* (UCA), including projects awarded energy supply contracts under the Clean Power Call.

- Consolidation of BC Hydro and the BC Transmission Corporation (BCTC). BCTC was originally created in 2003 in response to calls for increased independence of transmission and the development of regional transmission organizations. However, regional transmission organizations did not develop, and the movement towards greater independence for transmission did not advance further. As a result, the government views this as an opportunity to save costs and increase policy alignment through the consolidation of BC Hydro and BCTC.

- Modernization of the role of the British Columbia Utilities Commission (BCUC) and alignment of BCUC activities with the provincial government's energy policy objectives. As noted above, certain energy projects will be exempt from BCUC approval requirements under the UCA; however, BCUC will continue to regulate BC Hydro's domestic supply and rates. BCUC will also continue to regulate the safety and reliability of the BC Hydro system, handle ratepayer complaints, and regulate operating, management and administrative costs.

OVERVIEW OF THE CLEAN ENERGY ACT

The proposed Act is comprised of 10 parts and 77 sections. A first reading of the Act is currently underway, so the legislation may be revised before the final Act is passed. Below is an overview of the key provisions of the Act (to view a copy of the first reading of the Act online, click [here](#)).

BC's Energy Objectives

Part 1 of the Act sets out 16 specific energy objectives for the province, including expediting clean energy investments, protecting BC ratepayers, ensuring competitive rates, encouraging conservation, strengthening environmental protection, and aggressively promoting regional job creation and First Nations' involvement in clean electricity development opportunities.

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Prohibited Projects

Under Part 2 of the Act, sections 10 and 11 prohibit the development of certain energy projects as set out in Schedule 2. Section 12 of the Act prohibits BC Hydro from acquiring electricity from a proposed facility that is located, in whole or in part, in provincial parks, protected areas and conservancies.

Integrated Resource Plan

Section 3 of the Act requires BC Hydro to submit a long-term Integrated Resource Plan (Plan) that allows for public input and long-term stability for industry. The first Plan will consider BC's electricity needs over the next 30 years and must be submitted within 18 months of the Act coming into force and will be subject to acceptance by the government. Once accepted, BCUC will be required to consider the Plan in its future decisions.

Exemption of Certain Projects from BCUC Review

Section 7 of the Act provides for the exemption of certain strategic projects from approval by BCUC (which projects would otherwise have required BCUC approval under the UCA): (i) Northwest Transmission Line; (ii) Mica units 5 and 6; (iii) Revelstoke unit 6; (iv) Site C; (v) Bioenergy Phase 2 Call for Power; (vi) BC Hydro's Integrated Power Offer; (vii) Clean Power Call (issued on June 11, 2008); (viii) Standing Offer Program; (ix) Feed-in Tariff; and (x) BC Hydro's Smart Metering and Smart Grid Programs. Future projects, specifically those for the purpose of supplying export markets, will also be exempt from BCUC review under section 4(1)(b) of the Act. Notwithstanding the exempt projects listed in the Act, BCUC will continue to regulate BC Hydro and provide oversight for future BC Hydro projects and programs.

Standing Offer Program and Feed-in Tariff

Part 4 of the Act contains provisions to create greater flexibility around the Standing Offer Program. In particular, the Act enables repricing to reflect the results of recent clean power calls and includes an option to increase the maximum project size above 10 MW. With respect to feed-in tariffs, the Act enables the implementation of a feed-in tariff program to support the development of emerging technologies in renewable power production. The parameters of the feed-in tariff program will be established through regulation.

Energy Efficiency and Greenhouse Gas Reductions

To promote electricity efficiency and conservation, Part 5 of the Act provides for the installation of smart meters by 2012 and enables initiatives and programs to encourage the reduction of GHGs.

Consolidation of BC Hydro and BC Transmission Corporation

Part 7 provides for the integration of BC Hydro and BCTC into a single entity with one board of directors and executive. Furthermore, the Act provides for the transfer of all BCTC assets, liabilities and employees to BC Hydro.

First Nations Clean Energy Business Fund

Part 6 of the Act establishes the First Nations Clean Energy Business Fund, which aims to support revenue-sharing and facilitate further First Nations participation in renewable power production.

As noted above, the Act includes the export of electricity as an objective. Currently, BC Hydro does not contract for long-term export power sales. However, under the proposed Act, BC Hydro will be able to aggregate clean and renewable energy and offer customers outside BC the opportunity to secure long-term agreements for clean power at competitive prices. In order to meet these contractual commitments, BC Hydro will issue new clean power calls. Under the new regulatory framework, BC ratepayers will not subsidize export power sales because the Act explicitly requires BCUC to ensure that any expenditure for exports is not included in domestic rates.

GREEN ENERGY ADVISORY TASK FORCE REPORT

On the same day the Act was introduced, the report of the Green Energy Advisory Task Force was also released and contains a number of recommendations for implementing BC's clean energy strategy.

The Green Energy Advisory Task Force was established in November 2009 to provide input on BC's clean energy strategy. The task force was composed of four advisory groups, each focused on the following areas:

- procurement and regulatory reform;
- carbon pricing, trading and export market development;

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- community engagement and First Nations partnerships; and
- resource development.

Each group prepared a report based on their individual mandates. To view the final report of the Green Energy Advisory Task Force online, click [here](#).

The Act builds on a number of recommendations from the task force, including:

- confirming BC's commitment to the Heritage Contract (as provided for under the *BC Hydro Public Power Legacy and Heritage Contract Act*) to ensure BC ratepayers continue to receive the benefits of BC's low-cost electricity assets;
- moving forward critical infrastructure projects such as Site C and the Mica and Revelstoke upgrades;
- increasing BC's clean energy supply to meet domestic and future export demand;
- aligning the implementation of policy between BC Hydro and BCUC and reviewing the need for a separate transmission corporation;
- encouraging initiatives to reduce GHG emissions and improve energy efficiency; and
- creating a First Nations Clean Energy Business Fund to support revenue-sharing opportunities and to increase First Nations participation in clean energy resource development.

PAVING THE WAY TO BC'S CLEAN ENERGY FUTURE

By streamlining regulations around renewable power projects, the BC government is seeking to encourage renewable energy investments in the province. The Act also creates a new model to secure long-term export power agreements, which signals the provincial government's intent to actively seek out opportunities in export markets. With a clear export policy objective in place and exemptions from BCUC approvals for certain projects, including those projects in the Clean Power Call, the government appears to be paving the way for independent power producers to play a greater role in BC's clean energy future.

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