



INTENTIONS PAPER

Proposed amendment to the Greenhouse Gas Reduction (Clean Energy) Regulation
to advance renewable energy projects that displace diesel use in BC Hydro
Non-Integrated Areas

September 28, 2023

Introduction

The Province of British Columbia (the Province) has a CleanBC goal of reducing the use of fossil-based diesel fuel for electricity generation and heating in remote communities by 80% by 2030. The CleanBC Remote Community Energy Strategy (RCES) is a multi-stakeholder initiative led by the Ministry of Energy, Mines and Low-Carbon Innovation (the Ministry) to achieve this goal. The use of regulatory measures to support renewable energy generation projects that displace diesel in remote communities served by BC Hydro, referred to as Non-Integrated Areas (NIAs), is a RCES priority.

NIAs are not connected to the integrated BC Hydro grid but instead rely on distributed microgrids that are powered by a mix of diesel and renewable energy generation. NIAs collectively consume about 85% of the diesel used for electricity generation in remote communities in British Columbia (B.C.), representing up to 50,000 tonnes of greenhouse gas emissions per year. Most NIAs are governed by Indigenous nations.

The Province has invested significant resources towards the development of renewable energy projects in remote communities, including \$59 million in the Community Energy Diesel Reduction (CEDR) program administered by the New Relationship Trust. Several of the projects supported by CEDR and federal funding partners will reach the construction stage in the next 1-3 years, with additional projects reaching an advanced stage of development within 5 years.

BC Hydro plans to enter into several new Energy Purchase Agreements (EPAs) to purchase electricity from these new renewable energy projects. BC Hydro is required to seek acceptance of each EPA by the British Columbia Utilities Commission (BCUC) under section 71 of the *Utilities Commission Act* (UCA).

In determining whether to accept an EPA, the BCUC must consider whether the EPA is in the public interest based on a variety of factors, including the interests of ratepayers, the purchase price of the electricity, and the need for energy. The BCUC may not be prepared to accept upcoming EPAs where the cost of electricity is above the cost of diesel, despite the associated

climate and Indigenous reconciliation benefits of implementing renewable electricity projects in remote communities.

In many NIA communities, the total cost of transitioning to renewable energy is higher than the cost of diesel generation. This is primarily because the transition involves the combined operation of existing diesel generators (for backup and reliability), the commissioning of new, renewable energy generation and, in some cases, battery systems. Some of the upcoming renewable energy projects are expected to be near the cost of diesel generation, but others will be higher. If the BCUC does not accept the EPAs, these projects will not move ahead, and the Province will not achieve its diesel reduction goals in remote communities.

Engagement to date

In 2021, the Ministry of Energy, Mines, and Low-Carbon Innovation (the Ministry) invited representatives from remote Indigenous nations to participate in a working group to inform the continued development of RCES. The resulting RCES Working Group produced a [comprehensive recommendations report¹](#), which highlighted the need for regulatory and legislative support for diesel-displacing renewable energy projects in remote communities.²

In March 2023, the Ministry hosted engagement sessions with Indigenous nations in NIA communities to discuss the need for regulatory changes to facilitate the development of Indigenous-owned renewable energy projects. The aim of this early engagement was to confirm the Ministry's understanding of previous feedback from remote communities and to discuss potential regulatory responses.

During the engagement session on March 9, 2023, the Ministry presented a list of policy issues for consideration. The following issues are associated with renewable energy project development in NIAs:

- Uncertainty of project approval;
- Cost of upgrades;
- Unexpected costs;
- Uncertainty of purchase price; and
- Purchase price amount.

The Ministry then reviewed existing regulatory tools that could respond to the issues above. Under existing legislation, there are three main regulatory tools to support the implementation of renewable energy projects in NIAs, including:

- *Clean Energy Act*: Under the authority of section 18 of the *Clean Energy Act*, Cabinet may amend the Greenhouse Gas Reduction (Clean Energy) Regulation (GGRR) to require the BCUC to allow BC Hydro to recover the costs from ratepayers of EPAs for a class of projects that result in greenhouse gas reductions, such as diesel-displacing projects in NIAs.

¹ https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/electricity-alternative-energy/community-energy-solutions/rces_working_group_final_report_2022_06_01

- *Utilities Commission Act* exemption: Under the authority of section 22 of the *Utilities Commission Act* (UCA), the Minister responsible for the *Hydro and Power Authority Act* may exempt parties from the requirement to file an EPA under section 71 of the UCA. Exemptions may be issued on a case-by-case basis and cannot be issued for a group or class of projects.
- *Utilities Commission Act* direction: Under the authority of section 3 of the UCA, Cabinet may direct the BCUC to accept EPAs for a class of projects, such as diesel-displacing renewable energy generation projects in NIA communities and require the costs of those agreements to be recovered from all ratepayers.

Lastly, the Ministry reviewed possible parameters to guide the use of regulatory tools. The parameters that were put forward for discussion included:

- Project timing;
- Type of project;
- Project cost;
- Project ownership structure; and
- Ratepayer recovery.

The Ministry heard that Indigenous-led renewable energy projects are key to achieving the goals of many Indigenous nations, including energy sovereignty, economic development, and cultural revitalization. As such, participants were highly invested in understanding the implications of regulatory changes for projects in development and stressed the importance of ongoing BCUC oversight and involvement.

Participants also emphasized the need for more information regarding the regulatory tools and requested that the Ministry cultivate a deeper understanding of the resources needed for Indigenous nations to participate in engagement. The information that follows is partly a response to these requests. A full summary of the feedback received through the early engagement sessions is available in a [summary report](#).³

Proposed approach

To provide enhanced certainty for renewable energy projects in NIAs, the Ministry proposes to bring forward an amendment to the Greenhouse Gas Reduction (Clean Energy) Regulation (GGRR) for Cabinet consideration. The GGRR amendment would require the BCUC to allow BC Hydro to recover the costs from ratepayers of EPAs for Indigenous-owned renewable energy projects in NIAs signed before December 31, 2029, up to a maximum expenditure cap.

Further background information on the GGRR and proposed amendment is provided below.

³ https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/electricity-alternative-energy/community-energy-solutions/summary_of_virtual_engagements_with_indigenous_nations_in_non-integrated_areas_-_march_2023.pdf

What is the GGRR and how has it been used?

Within the [Greenhouse Gas Reduction \(Clean Energy\) Regulation⁴](#) (GGRR), Cabinet can use one or more criteria to define a class of projects, programs, contracts, or expenditures which utilities may carry out to reduce greenhouse gas emissions. A project, program, contract, or expenditure that falls within the defined class is called a “prescribed undertaking.” The BCUC must not prohibit a utility from carrying out a prescribed undertaking and must allow a utility to recover the costs it incurs to carry out a prescribed undertaking in rates.

The GGRR was put in place in 2012 and has been amended over time to include a variety of new prescribed undertakings. For example, in June 2020 amendments added a prescribed undertaking for electric vehicle charging stations, allowing utilities to recover costs from ratepayers for public fast charging infrastructure that meets the defined criteria.

What would the GGRR amendment specify?

The Ministry proposes to amend the GGRR to add a prescribed undertaking related to diesel reduction in NIAs. The prescribed undertaking would ensure that BC Hydro is able to recover the costs of an EPA for Indigenous-owned renewable energy projects in NIAs that are signed before December 31, 2029, up to a maximum expenditure cap.

The Ministry, in consultation with Indigenous nations, may need to provide a definition of Indigenous-owned renewable energy projects that displace diesel in NIAs, for the purposes of the GGRR amendment. The definition would also specify which renewable energy technologies are considered a prescribed undertaking under the amendment.

The amendment would be time-limited to align with the timeline of the RCES diesel reduction target, which aims to reduce diesel for electricity and heating in remote communities by 80% by 2030. EPAs signed before the proposed date of December 31, 2029, would be considered under the amendment. If approved by Cabinet, the GGRR amendment would come into effect in 2024, enabling a five-year window for the negotiation and signing of EPAs.

The amendment would also include a maximum expenditure limit. The inclusion of a total expenditure limit is intended to protect ratepayers while also promoting diesel reduction in NIAs. The Ministry has not yet determined the amount of the maximum expenditure limit.

Why propose a GGRR amendment over other possible regulatory tools?

Among the available regulatory tools, a GGRR amendment provides broad regulatory coverage for renewable energy projects in NIAs while retaining BCUC oversight in the acceptance of EPAs. A GGRR amendment also permits flexibility, as it does not preclude the Minister from issuing future exemptions under section 22 of the UCA. The Ministry, for example, may consider the need for exemptions for renewable energy projects in NIAs whose EPAs are submitted for approval by the BCUC before a GGRR amendment can be brought into effect.

⁴ https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/102_2012

What are the key advantages of using the GGRR?

A GGRR amendment provides more certainty around EPA approval for Indigenous-led renewable energy projects in NIAs. It aims to support the clean energy objectives held by many Indigenous nations and supports the CleanBC diesel reduction goal for remote communities.

The 5-year timeline for the GGRR amendment provides enhanced certainty for renewable energy projects in NIAs with EPAs signed prior to December 31, 2029, while limiting ratepayer impacts to currently known projects. The GGRR amendment could be further amended to extend beyond 2029, if deemed necessary at that time.

What are the limitations of a GGRR amendment?

The GGRR amendment is designed to be a short-term solution to address uncertainty of EPA approval for known renewable energy projects in NIA communities. It is not intended as a substitute for broader, long-term regulatory changes that may be required to address other policy issues associated with diesel reduction in NIAs.

In the future, legislative amendments could also be proposed that would enable decision-making by the BCUC that balances ratepayer impacts with climate, reconciliation, and other objectives. Such amendments would need to consider implications for utilities and ratepayers across the Province and are considered out of scope for the current proposal.

BC Hydro is currently engaging with NIA communities on two regulatory submissions that will support diesel reduction efforts. In December 2023, BC Hydro plans to submit a proposal for the regulatory oversight of long-term resource plans in the NIAs to the BCUC. In March 2024, BC Hydro plans to submit a NIA Strategy that outlines a strategic plan to improve the accessibility of clean, reliable, and affordable energy in the NIAs. BC Hydro also intends to release information about its upcoming commercial strategy in Fall 2024, which will introduce more certainty around purchase price.

What is the ratepayer impact of this approach?

The potential ratepayer impact of the EPAs for renewable energy projects in NIAs that would be covered by the proposed GGRR amendment would depend on the expenditure limit established in regulation; the Ministry expects the amendment to have a minimal impact on rates.

The BCUC retains the ability to determine which ratepayers should bear the cost of any EPA that falls within the proposed GGRR amendment. The Ministry considers it low risk that the BCUC would assign the incremental costs exclusively to one or more NIA customers, given that this would contradict the intent of the GGRR amendment.

What is the process and timeline for a potential GGRR amendment?

The Ministry is interested in consulting Indigenous nations and civic governments with NIA communities on the proposed GGRR amendment. Following this consultation, the Ministry will

consider whether to proceed with recommending the GGRR amendment to Cabinet for consideration.

If the GGRR amendment is supported by those consulted, the Ministry would prepare drafting instructions for legislative counsel. Legislative counsel would prepare draft text for the GGRR amendment and Ministry staff would submit this text along with additional information for Cabinet review in Spring 2024.

What kind of input is the Ministry currently seeking?

The Ministry is currently seeking input on the following aspects of the GGRR amendment:

- A. The use of the GGRR as a regulatory tool;
- B. The definition of Indigenous-owned renewable energy projects;
- C. The types of renewable energy projects covered by the amendment;
- D. The proposed time-limit of December 31, 2029, for the signing of EPAs that would be covered by the amendment; and
- E. Principles for the development of a total expenditure limit.

Request for feedback

The Ministry requests feedback on the proposed amendment to the GGRR. Verbal and written feedback is welcome, as are comments on the consultation process. The Ministry requests that responses to this proposal be submitted by **November 30, 2023**.

The Ministry intends to host virtual information sessions:

Tuesday, **October 17, 2023** – 2:00pm – 4:00pm

Tuesday, **October 24, 2023** – 10:00am – 12:00pm

Further details will be shared on the [Ministry's website](#)⁵ and emailed directly to invited Indigenous nations, Indigenous organizations, and civic governments.

Additional information about the consultation process can be found in the Ministry's [Draft Engagement Plan](#)⁶ and by contacting the Community Clean Energy Branch as follows:

communitycleanenergy@gov.bc.ca

Community Clean Energy Branch
B.C. Ministry of Energy, Mines and
Low-Carbon Innovation
P.O. Box 9314 Stn Prov Govt
Victoria, B.C. V8W 9N1

⁵ <https://www2.gov.bc.ca/gov/content/industry/electricity-alternative-energy/community-energy-solutions/remote-community-energy-strategy-rces#:~:text=The%20CleanBC%20Remote%20Community%20Energy,80%20per%20cent%20by%202030.>

⁶ https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/electricity-alternative-energy/community-energy-solutions/draft_engagement_plan_on_proposed_amendment_to_ggrr_09142023.pdf

Capacity funding

First Nations may be eligible for capacity support through the [Declaration Act Engagement Fund](#)⁷ (DAEF) to support participation in this engagement. There is currently no funding available to support the participation of Indigenous organizations or civic governments.

⁷ <https://newrelationshiptrust.ca/apply-for-funding/declaration-act-engagement-fund-daef-2/declaration-act-engagement-fund-daef/>