



BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS

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BCAFN ANNUAL GENERAL MEETING

Musqueam Community Centre, X^wməθk^wəyəm, Vancouver, BC
September 18-20, 2019

Resolution 25/2019

**SUBJECT: CALL FOR IMMEDIATE, MEANINGFUL AND SUBSTANTIVE ENGAGEMENT OF FIRST NATIONS
IN BC HYDRO'S PHASE TWO REVIEW**

MOVED BY: CHIEF COUNCILLOR CHARLES MORVEN, GITWINKSIHLKW VILLAGE GOVERNMENT

SECONDED BY: CHIEF WILLIE BLACKWATER, GITSEGUCLA

DECISION: CARRIED

WHEREAS:

- A. The generation, transmission and distribution of energy in British Columbia have profoundly and negatively affected our territories and our rights and title, while at the same time we have been denied equal access to the very same energy produced;
- B. For too long decisions about energy have been made by the Province of British Columbia, BC Hydro and the British Columbia Utilities Commission, without meaningful representation or participation of First Nations at the decision-making tables, both with respect to policy and with respect to specific projects and without the free, prior and informed consent of impacted First Nations;
- C. In December 2018, the Province released its CleanBC plan, a vision for a new low-carbon economy, which sets out ambitious goals for reductions in greenhouse gas (GHG) emissions and adapting to climate change. One of the main goals of CleanBC is to find a pathway to increase the use of clean and renewable energy. At the same time, First Nations have been working hard to reduce reliance on diesel fuel in remote communities, and to be included in the generation of clean energy and the economic opportunities presented by the transition to a low-carbon economy;

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A blue ink signature of Terry Teegee, the BC Regional Chief.

Terry Teegee, BC Regional Chief

- D. On March 7, 2019, the BCAFN Chiefs-in-Assembly passed Resolution 2019-04 which supports the efforts to develop renewable energy and alternative energy economies in First Nations. Additionally, in July 2019, the Chiefs-in-Assembly at the Assembly of First Nations AGA passed Resolution no. 05/2019, *Advancing First Nations Clean Energy Leadership for Economic Development and Action on Climate Change*, which also prioritizes the economic opportunities presented by clean energy;
- E. The BCAFN and the First Nations Leadership Council (FNLC) are not Aboriginal Title and Rights or Treaty Rights holders and cannot engage in processes to establish and provide free, prior and informed consent on behalf of individual First Nations;
- F. In 2010, the First Nations Energy and Mining Council (FNEMC) and BC Hydro signed a protocol agreement (“Energy Collaboration Agreement”) to identify areas of common interest within sustainable clean energy development, to discuss pressing issues related to BC Hydro’s plans and policies, and to work together to advance First Nations’ interests with respect to clean energy;
- G. BC’s shift to support Independent Power Producers (IPPs) and the BC Hydro Standing Offer Program (SOP) represented a new opportunity for First Nations to participate in the energy sector as proponents and partners, and also to explore energy independence. More than 100 First Nations in BC are now involved in an energy project, demonstrating our strong interest and capacity in the energy sector;
- H. In 2017 the Minister of Energy, Mines and Petroleum Resources (EMPR) received the mandate to undertake a Comprehensive Review of BC Hydro and to work with BC Hydro to develop a refreshed plan to keep rates affordable over the long-term. In June 2018, Government announced a two-phase approach for carrying out the Minister’s mandate (Phase 1 Review and Phase 2 Review). Phase 1 Review did not include any participation or consultation with First Nations, despite making findings and decisions that profoundly affect us, including the indefinite suspension of the SOP;
- I. Phase 2 Review currently plans to inquire about the long-term future of BC Hydro, including Indigenous Participation in the energy sector. Despite this, there is no First Nation representation in the Committees conducting the review, or oversight or guidance by First Nations at any stage. In fact, the only engagement planned is an opportunity to comment, alongside other “stakeholders”, on the “interim results”. Phase 2 Review is currently underway and expected to be finished in early 2020;
- J. Phase 2 Review completely fails to meet the minimum expectations of meaningful engagement with First Nations, and fails to honour the commitments made by the Provincial government to honour and implement the *UN Declaration on the Rights of Indigenous Peoples*, the Truth and Reconciliation Commission’s Calls to Action, and also the mandate letters of Minister Mungall, BC Hydro’s Statement of Indigenous Principles and Minister Mungall’s mandate letter to BC Hydro;
- K. The *United Nations Declaration on the Rights of Indigenous Peoples* states:
Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their

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Terry Teegee, BC Regional Chief

own procedures, as well as to maintain and develop their own indigenous decision-making institutions;

Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them;

Article 32: (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.

THEREFORE BE IT RESOLVED THAT:

1. The BCAFN Chiefs-in- Assembly direct the BCAFN Regional Chief, working with the Union of BC Indian Chiefs and the First Nations Summit as the First Nations Leadership Council, and with the support of the First Nation Energy and Mining Council to:
 - Call on the government of British Columbia to immediately overhaul the Terms of Reference of Phase 2 of the Comprehensive Review of BC Hydro currently underway, such that there is meaningful and substantive engagement by First Nations and by representative First Nations organizations at all levels of the review and that the Phase 2 Review recognizes and upholds our inherent and constitutionally protected Indigenous Title, Rights and Treaty Rights.
 - Engage BC Hydro in the Phase 2 Comprehensive Review, under the revisions to the Terms of Reference, and with the understanding that the FNLC is not an Aboriginal Title and Rights or Treaty Rights holder and cannot engage in processes to establish and provide free, prior and informed consent on behalf of individual First Nations.

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Terry Teegee, BC Regional Chief