Rethinking Regulation to Decarbonize Canada

Decarbonizing Remote Indigenous Communities

Energy regulation and Indigenous-owned renewables in British Columbia

March 2025

Emily He, Arthur Bledsoe, Fibha Nazim

PEMBINA Institute

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Arthur Bledsoe

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The Pembina Institute
#802, 322 – 11 Avenue SW
Calgary, AB T2R 0C5
403-269-3344

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The Pembina Institute recognizes that the work we steward and those we serve span the lands of many Indigenous Peoples. We acknowledge that our B.C. work takes place on the unceded ancestral territories of the xʷməθkʷəy̓əm (Musqueam), Sḵwx̱wú7mesh (Squamish), and səlilwətaɬ (Tsleil-Waututh) Nations. We also respectfully acknowledge that our organization is headquartered in the traditional territories of Treaty 7, comprising the Blackfoot Confederacy (Siksika, Piikani and Kainai Nations); the Stoney Nakoda Nations (Goodstoney, Chiniki and Bearspaw First Nations); and the Tsuut'ina Nation. These lands are also home to the Otipemisiwak Métis Government (Districts 5 and 6).

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Canada

Contents

List of acronyms

Acronym	
NIA	Non-Integrated Areas
EMLI	Ministry of Energy, Mines, and Low Carbon Innovation
BCUC	British Columbia Utilities Commission
CEA	Clean Energy Act
UCA	Utilities Commission Act
EPA	Energy Purchase Agreement
DRIPA	Declaration on the Rights of Indigenous Peoples Act
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
GGRR	Greenhouse Gas Reduction Regulation
LTRP	Long-Term Resource Plan
RRA	Revenue rate application

1. Introduction

This report focuses on British Columbia and is one of four detailed reports that provide a jurisdiction-based, comprehensive analysis of the current state of electricity legislation and regulation and explore potential pathways to enable Indigenous-owned renewable energy projects in remote communities. The other three reports cover the Northwest Territories, Nunavut and the Yukon, respectively.

A summary report, *Decarbonizing Remote Indigenous Communities: Regulatory reform in B.C. and the territories*, provides an overview of the analyses and recommendations contained in the detailed reports.

The summary and detailed reports can be found at https://www.pembina.org/pub/decarbonizing-remote-indigenous-communities.

British Columbia (B.C.) is undertaking an important transition to decarbonize its economy and reduce its emissions in response to climate change while pursuing reconciliation with First Nations. To help achieve these goals, the provincial government has set an ambitious target of reducing diesel consumption 80% by 2030 in the roughly 40 diesel-dependent remote communities across the province, the majority of which are governed by First Nations.[1]

Decarbonizing the energy systems of remote communities is a complex challenge, with intersecting regulatory, legislative, and economic barriers. Analyzed in this report are the legislative and regulatory frameworks for implementing clean energy projects in remote, diesel-reliant communities within B.C., with a special focus on the remote communities serviced by BC Hydro. As part of this analysis, we provide an overview of the key actors; examine the legislation, regulation and policy that govern energy development; and highlight the current conditions in the province that promote or impede decarbonization. We then set out tailored recommendations for the provincial government and regulator on accelerating clean energy development in remote communities; advancing inclusive decision-making; and fostering Indigenous leadership and partnership in diesel reduction efforts.

[1] New Relationship Trust, "Community Energy Diesel Reduction (CEDR)." https://newrelationshiptrust.ca/apply-for-funding/clean-energy-grants/community-energy-diesel-reduction-cedr

1.1 Methodology

A thorough literature review was done of various sources, including legislation and regulations, research papers, policy papers, reports, and government documents. Additionally, a diverse range of people were interviewed, among them clean energy professionals and advocates, public servants, and representatives from electric utilities and regulators.

2. Background

B.C.'s electricity system is almost entirely run by BC Hydro, which operates a province-wide integrated electricity grid with a capacity of over 12,000 MW, as well as 14 microgrids, referred to as the Non-Integrated Areas (NIAs), with capacities ranging from .4-10.3 MW and a total capacity of roughly 32 MW. These NIA microgrids serve 25 communities, governed by First Nations or unincorporated civic governments.[2] There are also five "end-of-line" communities, which rely on diesel generators because they are at the end of BC Hydro transmission corridors and experience more frequent outages.

The remaining 10 diesel-dependent communities are remote First Nations that own and operate their own microgrids and are referred to as "independent communities." The province does not regulate these communities because they are not classified as public utilities, but independent power authorities that provide electricity just to their own residents.[3] Seven out of the ten communities have significant diesel-reducing clean energy projects that are owned by the First Nation (see Appendix A).

Substantial clean energy development is planned in the NIAs, but only a few communities currently operate utility-scale clean energy projects. This stark difference in progress between the NIAs and independent communities is closely tied to the current state of utility regulation. To address this, B.C. is pursuing regulatory reform to facilitate more rapid decarbonization of remote communities and support Indigenous economic opportunities and leadership in the clean energy transition.

2.1 Key players

The following entities have a key role in developing and implementing energy policy relevant to remote communities in B.C. through legislation and regulation, mandate fulfillment, advocacy, and/or project development.

[2] BC Hydro "Project No. 1599667 Evidentiary Update and Compliance with Public Notice Directive," 2024. https://docs.bcuc.com/documents/proceedings/2024/doc_75671_b-1-bch-non-integrated-areas-planning-framework.pdf

[3] Government of British Columbia, *Utilities Commission Act*, SBC 1996, c. 1. https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96473_01#section1

Government of British Columbia

The **Ministry of Energy, Mines, and Low Carbon Innovation (EMLI)** administers the province's energy policy and is granted broad powers within legislation to direct the regulator and utility on specific decisions, such as approvals for certain projects or expenditures.[4]

Within the ministry, the Energy Decarbonization Division, through its Community Clean Energy Branch, is responsible for policies relating to remote communities. The ministry also has the Electricity Utility Regulation Division, which broadly focuses on utility and regulatory policy, but does not have the mandate to work with remote communities.

Regulator

All public utilities in the province are regulated by the **British Columbia Utilities Commission** (BCUC), which is an arms-length regulatory body. The BCUC is an economic regulator that is responsible for evaluating utility planning and expenditures in the province, including through public tribunals.[5]

Utility

BC Hydro is a Crown corporation that is responsible for providing electricity to most of the residents of B.C., including roughly about two-thirds of remote communities. As a Crown corporation, BC Hydro's sole shareholder is the B.C. government, and it takes direction from the minister of EMLI, though the corporation largely acts independently.[6]

NIA First Nations

Many NIA First Nations in B.C. are pursuing clean energy projects to reduce their diesel consumption and are advocating for legislative and regulatory reform to support that goal. First Nations have strongly called for their inclusion in regulatory, planning, and policy matters that affect them, and for a collaborative approach to diesel reduction.[7]

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[4] Government of British Columbia, *Utilities Commission Act*, SBC 1996, c. 3. https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96473_01#section3

[5] British Columbia Utilities Commission, "Energy Utilities." https://www.bcuc.com/WhatWeDo/EnergyUtilities

[6] Government of British Columbia, *Hydro and Power Authority Act,* SBC 1996. https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96212_01#section2

[7] BC Hydro, "BCH Non-Integrated Areas Planning Regulatory Framework, Exhibit B-2: B.C. Hydro Evidentiary Update and Compliance with Public Notice Directive," February 9, 2024, 104. https://docs.bcuc.com/documents/proceedings/2024/doc_76002_b-2-bch-evidentiaryupdate-publicnotice.pdf

The EMLI's Community Clean Energy Branch has a standing working group with representatives of seven diesel dependent First Nations to advise on developing and implementing the Remote Community Energy Strategy.[8] Representatives of NIA First Nations also participate in regular bilateral engagements with BC Hydro and ad hoc group engagements to discuss regulatory and planning developments.

[8] Government of British Columbia, "CleanBC Remote Community Energy Strategy (RCES)," June 24, 2024. https://www2.gov.bc.ca/gov/content/industry/electricity-alternative-energy/community-energy-solutions/remote-community-energy-strategy-rces

3. Legislation, regulation and mandates

3.1 Relevant legislation

The *Clean Energy Act* (CEA) is a central driver of energy policy and governance in B.C. The CEA, passed in 2012, sets out 16 energy objectives, or policy priorities, for B.C.'s energy system.[9]

The *Utilities Commission Act* (UCA) and *Administrative Tribunals Act* establishes the BCUC, while BC Hydro is created under the *Hydro and Power Authority Act*. The BCUC regulates BC Hydro's operations primarily through mechanisms outlined in the UCA, as follows:

- reviewing and approving the public utility's long-term resource plan (LTRP)[10]
- determining if major expenditures, such as energy supply contracts, also known as energy purchase agreements (EPAs), are in the public interest[11]
- reviewing and approving electricity rates through revenue requirements applications (RRAs)[12]

In carrying out its functions, the BCUC holds public, open and transparent reviews that include opportunities for feedback from the public. As part of these reviews, the BCUC can request additional information and make orders to BC Hydro.

The *Declaration on the Rights of Indigenous Peoples Act* (DRIPA) was passed in 2019 and mandates that the government do all it can to align provincial legislation with the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP)[13] in consultation and collaboration with Indigenous Peoples.[14] Key energy sector laws, such as the CEA and the UCA, have not yet been revised to align with UNDRIP.

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[9] Government of British Columbia, *Clean Energy Act*, SBC 2010, c. 22. https://www.bclaws.gov.bc.ca/civix/document/id/lc/statreg/10022_01#part1

[10] Government of British Columbia, *Utilities Commission Act*, RSBC 1996, c. 473, s. 44.1. https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96473_01

[11] *Utilities Commission Act*, s. 71.

[12] *Utilities Commission Act*, s. 60.

[13] United Nations, *United Nations Declaration on the Rights of Indigenous Peoples*, UN Doc. A/RES/61/295 (2007). https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

[14] Government of British Columbia, *Declaration on the Rights of Indigenous Peoples Act,* SBC 2019, c. 44. https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/19044

3.2 Regulation

There are many regulations that detail the rules and procedures for utility operations. However, one that is of prime importance to the clean energy transition in B.C. is the *Greenhouse Gas Reduction Regulation* (GGRR), authorized under the CEA. The regulation establishes classes of projects that reduce greenhouse gases, or "prescribed undertakings,"[15] the costs of which utilities are permitted to recover through electricity rates. These classes of projects, which include things like investments in renewable fuels or electric vehicle charging stations, are listed in the GGRR and are exempt from the BCUC's economic jurisdiction. For these projects, the BCUC's role is not to determine whether the project is economically efficient or in the public interest, but rather to ensure that the project complies with the definition of a prescribed undertaking in the regulation. This regulatory tool allows the government to give explicit direction to the utility and the BCUC about their priorities without broader legislative change.

3.3 Mandates

The B.C. government created the CleanBC plan to coordinate activities across ministries to meet climate targets and invest in a clean energy economy. The plan has shaped government priorities and mandates, especially related to clean energy, and set a target of 80% diesel reduction in remote communities by 2030.[16] To act on the government priorities, the B.C. premier issues mandate letters to all cabinet members. The 2023 mandate letter to the minister of EMLI included these priorities relevant to diesel reduction:[17]

- deliver on the ministry's CleanBC Roadmap to 2030
- work with BC Hydro to implement its electrification plan and include options for Indigenous ownership and/or partnership in clean energy projects
- work with the BCUC to identify an appropriate role for the commission in supporting the clean energy transition[18]

BC Hydro's executive leadership receives their priorities in a mandate letter from the minister of EMLI. The letter for 2023 listed among other priorities working with the province to implement

[15] Defined in the *Clean Energy Act*, s. 18.

[16] Government of British Columbia, *CleanBC* (2018). https://www2.gov.bc.ca/assets/gov/environment/climate-change/action/cleanbc/cleanbc_2018-bc-climate-strategy.pdf

[17] In 2025, EMLI was renamed the Ministry of Energy and Climate Solutions, and the 2025 mandate letter does not acknowledge diesel reduction or remote energy as a priority. The content of this report is largely focused on actions taken under the 2023 mandate, considering their ongoing impact on the regulatory environment.

[18] David Eby, premier of B.C., letter to the Hon. Jose Osborne, minister of EMLI, January 15, 2024. https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/premier-cabinet-mlas/minister-letter/emli_-_osborne.pdf

the Remote Community Energy Strategy, which is designed to meet the CleanBC diesel reduction target.[19]

The BCUC's mandate, as articulated in the UCA, is to ensure that the utility provides adequate, reliable and safe electricity service; that its operations are in the public interest; and that its rates are fair and reasonable. The UCA establishes that the BCUC's mandate is to promote economic efficiency in its review of BC Hydro's revenue requirements through revenue requirement applications (RRAs). If the utility's costs are determined to be not reasonable or prudent, the BCUC does not allow the utility to recover these costs through rates.[20]

With long-term resource plans (LTRPs) and energy purchase agreements (EPAs), the BCUC is mandated to consider the province's 16 energy objectives, one of which is "the development of First Nation and rural communities through the use and development of clean or renewable resources."[21] Notably, the BCUC is not required to consider these objectives for RRAs, which is where BC Hydro's expenditures are evaluated for economic efficiency. The BCUC's mandate is only revised through the UCA, the CEA or through regulations authorized through these acts. This creates the potential for misalignment between a government's policy goals and the BCUC's decision-making framework, as policy goals, including the province's energy objectives, that require BC Hydro to alter its revenue requirement risk being rejected by the BCUC because they may not be deemed to be economically efficient.

[19] Josie Osborne, letter to Lori Wanamaker, chair of BC Hydro, July 26, 2023. https://www.bchydro.com/content/dam/BCHydro/customer-portal/documents/corporate/accountability-reports/openness-accountability/bch-mandate-letter-2022-2023.pdf

Josie Osborne, letter to Doug Allen, chair of BC Hydro, July 15, 2021. https://www.bchydro.com/content/dam/BCHydro/customer-portal/documents/corporate/accountability-reports/openness-accountability/bch-mandate-letter-2021-2022.pdf

B.C. Ministry of EMLI, *Remote Community Energy Strategy 2023 Update Report* (2023). https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/electricity-alternative-energy/community-energy-solutions/rces-vfin2-online-print.pdf

[20] *Utilities Commission Act*, s. 60.

British Columbia Utilities Commission, "Setting Utility Rates." https://docs.bcuc.com/documents/FactSheets/BCUC_2022_Fact-Sheet_Setting-Utility-Rates.pdf

[21] Government of British Columbia, *Clean Energy Act*, SBC 2010, c. 2. https://www.bclaws.gov.bc.ca/civix/document/id/lc/statreg/10022_01#section2

4. Current conditions

Presently, the B.C. Government, BC Hydro and NIA First Nations are strongly aligned on the need to reduce diesel consumption in remote communities. Nevertheless, progress has been slow due to considerable regulatory barriers to diesel reduction on the NIA microgrids.

NIA First Nations, some of whom have been pursuing diesel-reducing initiatives for decades, have expressed frustration at the slow pace of BC Hydro's diesel reduction progress, the lack of transparency and inclusion in the utility's planning process, and the lack of regulatory oversight, especially as it relates to energy planning.[22]

BC Hydro has pointed to the BCUC's economic regulation as the major barrier to supporting diesel reduction, as it prevents the utility from investing in renewable energy projects if the diesel-dependent status quo is more affordable and reliable. NIA First Nations have voiced discontent at this misalignment of mandate between the government's diesel reduction goals as set out in CleanBC and the BCUC's oversight of BC Hydro.

The years 2023 and 2024 saw two significant developments to address these regulatory barriers: an amendment under the Greenhouse Gas Reduction Regulation (GGRR), and a regulatory review of BC Hydro's long-term resource planning framework for the NIAs.

Tackling regulatory barriers

Greenhouse Gas Reduction Regulation amendment

In June 2024, the B.C. government passed an amendment to the GGRR to include clean or renewable resource projects in NIA communities as prescribed undertakings.[23] This means that when BC Hydro purchases power from a community-owned renewable energy project in the

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[22] David Benton, clean energy lead of Gitaga'at First Nation, letter to the BCUC on the NIAs Planning Regulatory Framework – Panel Request for Comments, May 10, 2024. https://docs.bcuc.com/documents/proceedings/2024/doc_77721_c2-4-gfn-letterofcomment-ggrr-bch-proposal.pdf

Terry Webber, clean energy director of Nuxalk Nation, letter to the BCUC on the NIAs Planning Regulatory Framework, May 16, 2024. https://docs.bcuc.com/documents/proceedings/2024/doc_77136_c3-3-nuxalknation-letterofcomment.pdf

Sebastian Ennis, Iris Legal, letter to the BCUC on the Zone II Ratepayers Group – Final Argument, 2021 Integrated Resource Plan, December 21, 2023. https://docs.bcuc.com/documents/arguments/2023/doc_75515_2023-12-21-zoneiirpg-finalargument.pdf

Chris Sandive, chief regulatory officer of BC Hydro, letter to the BCUC on the NIAs Planning Regulatory Framework evidentiary update and compliance with public notice directive, February 9, 2024. https://docs.bcuc.com/documents/proceedings/2024/doc_76002_b-2-bch-evidentiaryupdate-publicnotice.pdf

[23] Government of British Columbia, *Order in Council No. 301*, June 10, 2024. https://www.bclaws.gov.bc.ca/civix/document/id/oic/oic_cur/0301_2024

NIAs or upgrades infrastructure to ensure NIA microgrids can support renewable energy integration, the BCUC must allow the utility to recover these costs across its general rate base.[24] Put simply, BC Hydro's spending is no longer explicitly tied to the price of supplying and operating diesel generated electricity, and therefore the utility can spend more of its budget on renewable energy and infrastructure in the NIAs.

Long-term resource planning for the NIAs

A parallel development to the GGRR amendment has been the regulatory review of BC Hydro's long-term resource planning in the NIAs. Long-term resource planning details how BC Hydro will meet the expected demand for power from its customers. When the public disagrees with BC Hydro's estimations for how much demand there will be or what resources should be leveraged to provide that power, they have the opportunity to intervene in a regulatory review and make their concerns heard. BC Hydro has historically been exempted from such a review for the NIA microgrids despite the outsized impact utility planning has on a remote community's energy security and opportunity for growth.[25] NIA First Nations have repeatedly voiced concerns about BC Hydro's planning due to slow pace of progress on diesel reduction and lack of planning in alignment with community priorities. As a result of this advocacy, the BCUC order for BC Hydro to submit a long-term resource plan (LTRP) for the NIAs and a diesel reduction strategy to the commission by March 2024.[26]

Instead of submitting a long-term resource plan, BC Hydro submitted a proposal for an alternate framework for regulatory review of long-term planning in the NIAs, citing NIA First Nations' call for inclusion in the planning process, and arguing that a different, more flexible process should be established. The utility argued that the process should be less prescriptive than the existing standard under UCA, section 44.1, to allow BC Hydro to recognize the unique nature of each community microgrid and work directly with communities on planning activities.[27]

While BC Hydro's proposal did take into account NIA First Nations' call to be included in planning, it effectively eliminated any standards for what planning should entail. Additionally,

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[24] Government of British Columbia, *Greenhouse Gas Reduction Regulation*, SBC 2024, s. 3.1. https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/102_2012#section3.1

[25] Chris Sandive, chief regulatory officer of BC Hydro, letter to the BCUC on the NIAs Planning Regulatory Framework, Responses to Information Request No. 1, April 26, 2024. https://docs.bcuc.com/documents/proceedings/2024/doc_76863_b-5-bch-interveners-irno1-responses.pdf

[26] British Columbia Utilities Commission, *Fiscal 2023 to Fiscal 2025 Revenue Requirements Application Decision and Order G-91-23,* Directive 85, April 21, 2023. https://docs.bcuc.com/documents/other/2023/doc_71082_g-91-23-bch-f23-f25-rra-decision.pdf

[27] BC Hydro, letter to the BCUC on the NIAs Planning Regulatory Framework, December 15, 2023. https://docs.bcuc.com/documents/proceedings/2024/doc_75671_b-1-bch-non-integrated-areas-planning-framework.pdf

the proposal included no regulatory review of BC Hydro's long-term resource planning in the NIAs, maintaining the status quo in which NIAs are denied any oversight of the utility's long-term planning.[28] NIA First Nations participating in the regulatory proceeding raised these concerns, among others, with the BCUC throughout the proceeding.[29]

Despite these outstanding concerns from NIA First Nations, the BCUC adopted BC Hydro's proposal in October 2024, but ordered that the utility submit a yearly progress report on its activities working with communities on energy planning.[30]

Ongoing tensions

These developments highlight tensions in utility regulation in B.C. on decarbonizing remote communities. Previously, BC Hydro understood the BCUC's regulation to be a barrier to supporting renewable energy because it created a cost pressure. This made it very difficult for BC Hydro to move away from the diesel status quo, which was considered the most reliable and affordable option, despite community preferences for renewable energy. On the other hand, First Nations found BC Hydro's inaction on renewable energy planning unacceptable and out of line with the government and utility's mandates and saw the BCUC's regulation as an avenue to hold the utility accountable to deliver on its diesel reduction mandate.

The GGRR amendment explicitly removes the cost pressure created by the BCUC's regulation and allows BC Hydro to invest in diesel-reducing solutions for the NIA microgrids. While a positive development, it is overshadowed by the BCUC's ruling that long-term resource planning will not be reviewed by the BCUC except through a yearly progress report with no established format, structure or requirements. As a result, NIA First Nations do not have any regulatory oversight or accountability mechanisms to pursue recourse when BC Hydro's planning does not align with community interests and aspirations.

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[28] Simon Dyer, deputy executive director of the Pembina Institute, letter to the BCUC on the NIAs Planning Regulatory Framework, July 23, 2024. https://docs.bcuc.com/documents/proceedings/2024/doc_77961_d-1-1-pembina-letterofcomment.pdf

[29] Letters submitted to the BCUC as part of the proceeding on the NIAs Planning Regulatory Framework:

David Benton, clean energy lead of Gitaga'at First Nation, July 9, 2024. https://docs.bcuc.com/documents/proceedings/2024/doc_77721_c2-4-gfn-letterofcomment-ggrr-bch-proposal.pdf

Bo Reid, chief executive officer of Heiltsuk Nation, July 26, 2024. https://docs.bcuc.com/documents/proceedings/2024/doc_78050_c4-3-heiltsuknation-letterofcomment-ggrr-bch-proposal.pdf

Nang Hl K'aayaas Sean Brennan, implementation manager of Tll Yahda Energy, May 28, 2024. https://docs.bcuc.com/documents/proceedings/2024/doc_77286_d-2-1-tll-yahda-letterofcomment.pdf

Sebastian Innis on behalf of the Zone II RPG, May 16, 2024. https://docs.bcuc.com/documents/proceedings/2024/doc_77157_c6-3-zoneii-rpg-letterofcomment.pdf

[30] British Columbia Utilities Commission, *Order Number G266-24,* October 22, 2024. https://docs.bcuc.com/documents/other/2024/doc_78897_g-266-24-bch-non-nia-planning-regulatory-framework-final.pdf

NIA First Nations pursuing clean energy projects for diesel reduction have no choice but to work closely with BC Hydro on technical integration and to sell clean power through an EPA. This BCUC ruling reinforces the asymmetrical relationship between BC Hydro and NIA communities; BC Hydro can effectively dictate the energy future of an NIA based on its own technical assessments and financial interest with no guarantee that it will reflect First Nations' interests, goals and aspirations.

Need for legislative reform

BC Hydro's current mandate is to pursue diesel reduction to meet the CleanBC target, and the utility has acknowledged the importance of working in partnership with communities to achieve that goal. Nevertheless, the mandate does not protect the Indigenous rights outlined in UNDRIP. In particular, the Indigenous rights to participate in decision-making and policy matters that affect them, as well as to determine priorities for development on their territories,[31] are not reflected in the mandate or the current regulatory regime.

The BCUC acknowledges this and has recommended that the BC government update the UCA to explicitly authorize the commission to consider UNDRIP in its review of utility applications.[32]

Through DRIPA, the B.C. government is mandated to align all provincial laws and policies with UNDRIP. Such reform would require changes to the CEA and the UCA, as well as other energy sector legislation, to integrate into the mandates of the BCUC and BC Hydro accountability structures that protect the rights of NIA First Nations. In 2022, a report was commissioned by an NIA First Nation to study legal pathways to harmonize energy sector legislation with UNDRIP. Several pathways for reform were presented, including amending the CEA and UCA or, alternatively, developing a dedicated Indigenous energy act that details how Indigenous rights will be protected and adhered to in future utility regulation.[33]

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[31] *UNDRIP*, articles 18, 19, 23.

[32] British Columbia Utilities Commission, *Indigenous Utilities Regulation Inquiry Finaly Report Summary* (2020). https://docs.bcuc.com/documents/other/2020/doc_57960_bcuc-indigenous-utilities-inquiry-finalreportsummary.pdf

[33] Katie Curry and Edith Barabash, *Law Reform to Support Replacing Remote Community Generators with Clean Energy* (University of Victoria, 2022). https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/electricity-alternative-energy/community-energy-solutions/rces_legal_recommendations_from_elc_uvic_may_2022.pdf

5. Recommendations

B.C. has set an aggressive goal for diesel reduction and both BC Hydro and the B.C. government have taken major steps to remove regulatory barriers to advancing clean energy projects. However, there are still considerable gaps regulatory accountability between NIA First Nations, the BCUC and BC Hydro. Below, we provide recommendations for both the government and the BCUC to bridge these gaps.

5.1 Government action

The B.C. government has shown leadership in regulatory reform by amending the GGRR for remote communities. However, this amendment does not reflect the necessary changes called for by DRIPA. Energy sector governance that aligns with UNDRIP must be developed in close collaboration with NIA First Nations, ensuring that Indigenous rights to determine their development priorities, especially with respect to energy, are enshrined in energy legislation. This governance model must also hold regulators and utilities to account.

Prioritize DRIPA-aligned legislative reform in the energy sector

As part of its commitment under DRIPA, the B.C. government should prioritize aligning energy sector legislation, such as the CEA and UCA, with UNDRIP or introduce new legislation specific to Indigenous energy. This process will require extensive collaboration and consultation with all First Nations. Special care should be taken to ensure that the unique conditions and needs of remote First Nations communities (NIA First Nations) are not ignored as compared with grid connected First Nations.

5.2 Regulator action

The BCUC's approval of the BC Hydro proposal for planning in the NIAs does not include a meaningful mechanism for NIA First Nations to hold the utility accountable to their needs and priorities.

Solicit annual input from NIA First Nations on BC Hydro's planning progress reports and establish a regular review of the NIA planning framework

Although the BCUC will not review BC Hydro's long-term resource planning for the NIAs under the framework established in the UCA, the regulator did direct BC Hydro to file an annual progress report on the development of collaborative planning in the NIAs. These progress reports could become recurring opportunities for NIA First Nations either to voice their support

for BC Hydro's engagement in their communities and plans for their microgrids or to pursue conflict resolution when disagreements persist.

The BCUC should establish a regular, recurring review of the planning framework to ensure that it is accomplishing the goals of a long-term resource plan in alignment with BC Hydro's obligations and community preferences. These reviews could be used to further refine the planning framework. The BCUC is well placed to act as a mediator to address disagreements and provide a new approach towards more effective collaboration between BC Hydro and NIA First Nations. To achieve this the BCUC must ensure that NIA First Nations have the opportunity to comment and that they are appropriately resourced to do so.

Appendix A. First Nations-owned clean energy projects

The projects in the table below are all located in the independent communities.

Project
Nicknaqueet River hydropower project[1]
Hesquiaht Ah'ta'apq Creek Hydro and community solar project[2]
Kluskus bioenergy combined heat and power project[3]
Nemiah Valley solar and underground transmission project[4]
Klemtu hydropower modernization and battery project[5]
Gwa'yas'dums hybrid solar battery grid[6]
Padakus Creek hydropower project[7]

Notes

[1] "Wuikinuxv Nation Invests in Clean Energy to Power Rivers Inlet." https://coastfunds.ca/news/wuikinuxv-nation-invests-in-clean-energy-to-power-rivers-inlet/

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