

Private Water Utility Regulation

Submission to the BCUC Review Task Force

July 25, 2014

Purpose

The BCUC Review Task Force has been requested to explore the potential efficiencies associated with the BCUC becoming the regulator of private water utilities. This submission is intended to assist the Task Force in their review.

The submission is organized as follows:

1. Background
2. Status of Utilities
3. Regulatory Program, Scope and Approach
4. Key Issues and Program Responses

1. Background

A water utility is defined in the *Water Utility Act* as a person or business that owns or operates waterworks serving five or more connections, for compensation. Most privately owned water utilities were created in rural areas to provide water service to land development where other water authorities did not exist or were not prepared to provide the requested service. The creation of private utilities therefore facilitated land development. Water utilities primarily serve fee simple subdivisions but also serve strata developments, ski and golf resorts and other developments.

In the 1940s the Province decided on a mixed ownership model for water utilities where utilities could be either publicly or privately owned. Initially private water utilities were authorized and regulated by the Public Utilities Commission. In 1972 the Commission was restructured and the Comptroller of Water Rights assumed responsibility for regulation of water utilities. At the time 214 water utilities existed. The 1970s saw the creation of many more utilities until the number peaked in 1980 at 260 utilities. The staff complement at the time was 12 FTEs.

Since then the provincial government has encouraged regional districts to become the service providers in rural areas. This has resulted in many private utilities being transferred to regional districts (*see attachment*). Also some utilities within municipal boundaries were transferred to municipalities.

2. Status of Utilities

Number and Size of Utilities

Currently there are 135 regulated water utilities located mainly in the southern part of the province. All told they serve approximately 30,000 households. Over half serve fewer than 50 authorized lots (*see attached size distribution*). The smallest utility serves 7 lots; the largest, serving the City of White Rock, has over 7000 connections. Many ski and other resorts in the province are served by private utilities.

Ownership

The various types of utility ownership and the percentage of utilities in each are as follows:

Corporations	70%
Societies	22%
Proprietorships/ partnerships	5%
Strata corporations	3%

Strata corporations are deregulated once over half the lots are sold and a strata council has formed.

Age

The average age of water utilities is 33 years. The average lifespan of water utility infrastructure is 50 years. The oldest regulated water utility is 68 years old.

Only three utilities have been created in the last 6 years; the parent corporations of two are in receivership and one is near bankruptcy due to the decline in demand for rural recreation properties since the 2009 economic downturn.

Rates

Investor type Utilities generally have rate base (the value of property upon which a utility is permitted to earn a specified rate of return as established by a regulatory authority). Only two water utilities are investor type with rate base (EPCOR White Rock and EPCOR Water West).

The other regulated water utilities are mostly small subdivision (developer driven) type utilities with no rate base as the developers are required to contribute the water system to the water utility with no expectation of a return of or on investment as a condition of granting the CPCN. This, along with required reserve funds, helps ensure economic viability of the water utility independent of the developer over the short, medium and long-term and ensures customers receive adequate water service at reasonable rates.

Trust Funds

All told, regulated water utilities have approximately \$18 million in various trust funds, primarily for Replacement, Revenue Deficit and Construction purposes.

Drinking Water Quality

In 2013, 29 utilities of various sizes were issued Boil Water Notices (BWNs) by provincial Health Authorities. The number of BWNs fluctuates significantly due to factors such as turbidity at freshet and positive water samples (the City of Vancouver has received BWNs). The Health Authorities are encouraging water system owners to follow the 4-3-2-1-0 Drinking Water Objectives to ensure multiple barriers are in place against viruses, parasites and bacteria.

3. Regulatory Scope and Approach

Mission

We regulate utilities to ensure that the water systems they install are properly designed and constructed, and that they provide safe and adequate water service at rates that are fair, reasonable and sufficient to operate their water systems sustainably.

Staffing

The program functions with 5 FTEs of effort. Staff carry out other functions within the Water Management Branch as required and are not isolated to Utility Regulation functions.

Approach

The *Water Utility Act* links to most of the powers in the *Utilities Commission Act*.

The overall regulatory approach is to set standards (by way of guidelines – all recently updated), rely on qualified professionals, and then check compliance with approvals provided through statutory decisions. A number of the very small utilities however do not have the means to hire qualified professionals and require significant staff assistance in terms of preparing applications and sorting through various issues.

To be effective the Utility Regulation program needs to accomplish the following:

- ensure water systems are built to current standards
- ensure rates are fair and reasonable
- ensure systems are economically sustainable
- facilitate transfer of systems to local governments
- deal effectively with customer complaints.

The major activities to accomplish the above are:

Certificates of Public Convenience and Necessity (CPCNs)

CPCN applications are investigated to ensure proposed water systems and their extensions are properly designed and constructed, as well as being financially viable.

Reserve trust funds are established and other financial mechanisms are arranged to ensure the utility will be a viable operation providing acceptable water service to customers in the long-term.

At this stage Utility Regulation staff work with the Health Authorities to ensure systems will provide safe, potable water. They also ensure there is sufficient source and system capacity to meet fire flow requirements and maximum day demands.

Applications are made by consulting engineers hired by developers. Recently updated CPCN Application Guidelines assist the process.

Tariffs

Rates are set to allow the utility to collect sufficient revenue to pay the costs involved in providing service. This includes costs to operate, maintain, replace and upgrade the water system. New utilities are now required each year to set aside 2-3% of the capital value of the system into a Replacement Reserve Fund. This allows full replacement in 50 years, which is the life expectancy of small water systems.

Applications by utilities for rates and rate increases are advertised to provide customers and other interested persons opportunity for comment before decisions are made by the Comptroller. Some applications are prepared by utilities themselves and others by accounting firms hired by the utilities. New Financial Guidelines and Small Water System Financial Best Management Practices assist utilities in the preparation of tariff applications.

Rate hearings are almost exclusively written processes as they are the most efficient and cost effective. Some utility rates were set many years ago and are not sufficient for system sustainability. This issue is receiving greater attention.

Review of Annual Reports

Utilities are required annually to submit information on their operational, administrative and financial status and activities. The Annual Reports are reviewed to evaluate financial status and trust fund compliance. Problems are investigated and appropriate remedial action is taken as resources allow. Approximately 70% of utilities are compliant with annual reporting requirements. The current target is to reach 90% compliance.

Reserve Trust Fund Administration

Certain funds held by utilities are established to ensure their financial viability in the short, medium and long term. Withdrawals can be made only with the approval of the Comptroller. These funds are monitored to ensure correct balances are maintained. Many utilities have inadequate reserve funds given their age.

Complaint Investigations

Complaints from customers, developers and other parties involved with utilities are investigated by referring the matter to the utility for comment and collecting the necessary information prior to taking any action.

Transfers to Local Governments

A common policy among provincial agencies is to encourage the transfer of private water systems to local government. Staff work with regional districts, other government agencies, utility owners and customer groups to explore opportunities for and enact successful transfers. However, as a quasi-judicial regulator, the Comptroller operates independently and respects that any transfer requires the willingness of three parties: the Utility owner willing to divest the system, the local government willing to take-over the system and the customers voting for it through referendum or petition.

4. Key Issues and Program Responses

Issues

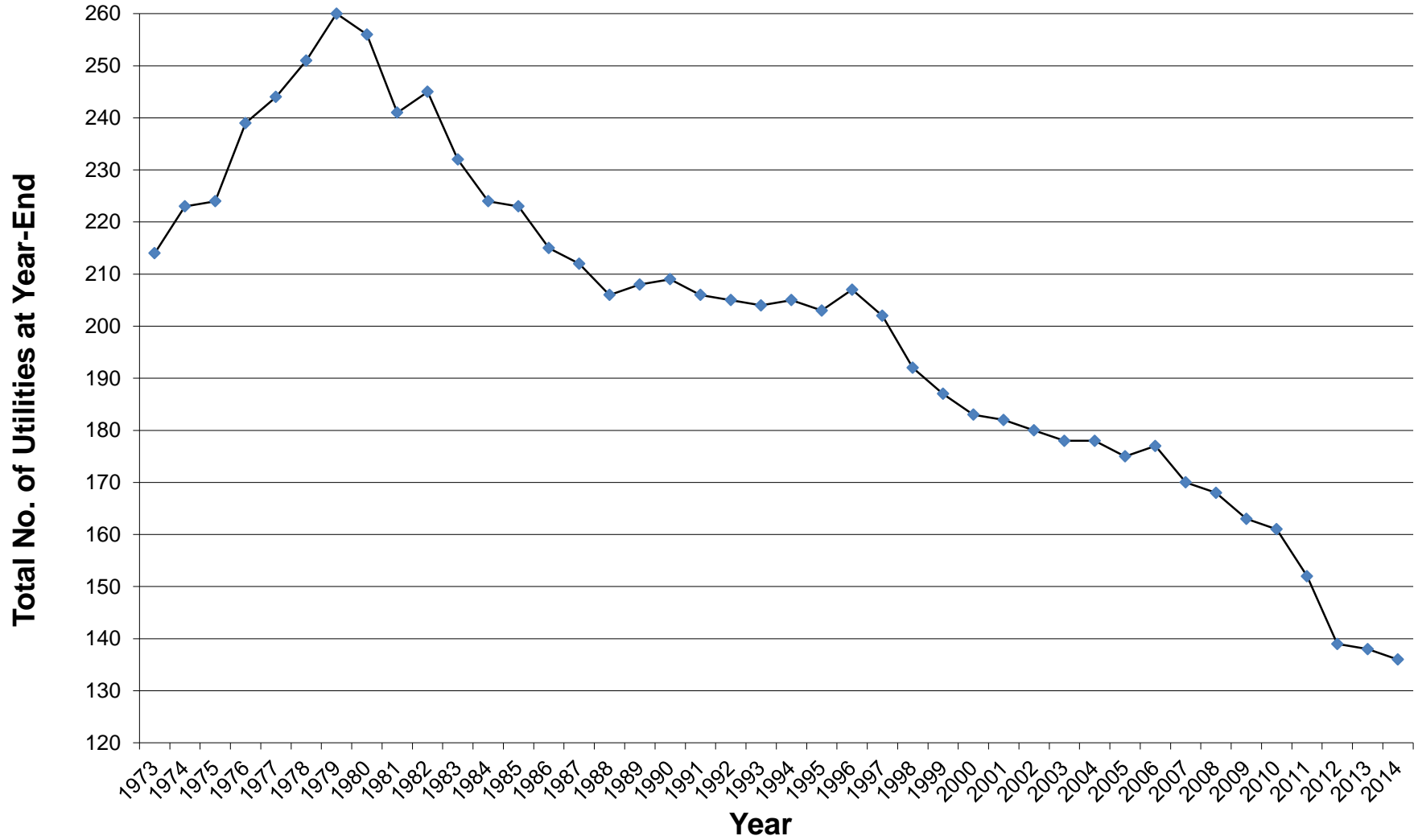
- **Aging Infrastructure:** *Many utilities are past their half-life with inadequate reserve funds for replacement.*
- **Increased Drinking Water Standards:** *Smaller utilities struggle to meet costly drinking water standards and deal with aging infrastructure.*
- **Lack of Economies of Scale:** *Even with increased rates smaller utilities struggle to build sufficient capital to address the above issues.*
- **Affordability:** *Some utilities serve economically depressed areas with minimal means to pay increasing rates.*
- **Escheat:** *Utility owners abandon their systems for a variety of reasons and the utility assets (and liabilities) then escheat to the crown.*
- **Lack of Management Capacity:** *A number of smaller utilities are “mom and pop” type operations without the capacity to attend to the various water system responsibilities required today.*
- **Non-compliance:** *Currently 30% of utilities are non-compliant with annual reporting requirements, and 10% of utilities are not compliant with required trust fund contributions. We currently manage 3 utilities seized for non-compliance with orders, and a 4th was dissolved last week by Cabinet for non-compliance.*

Program Responses

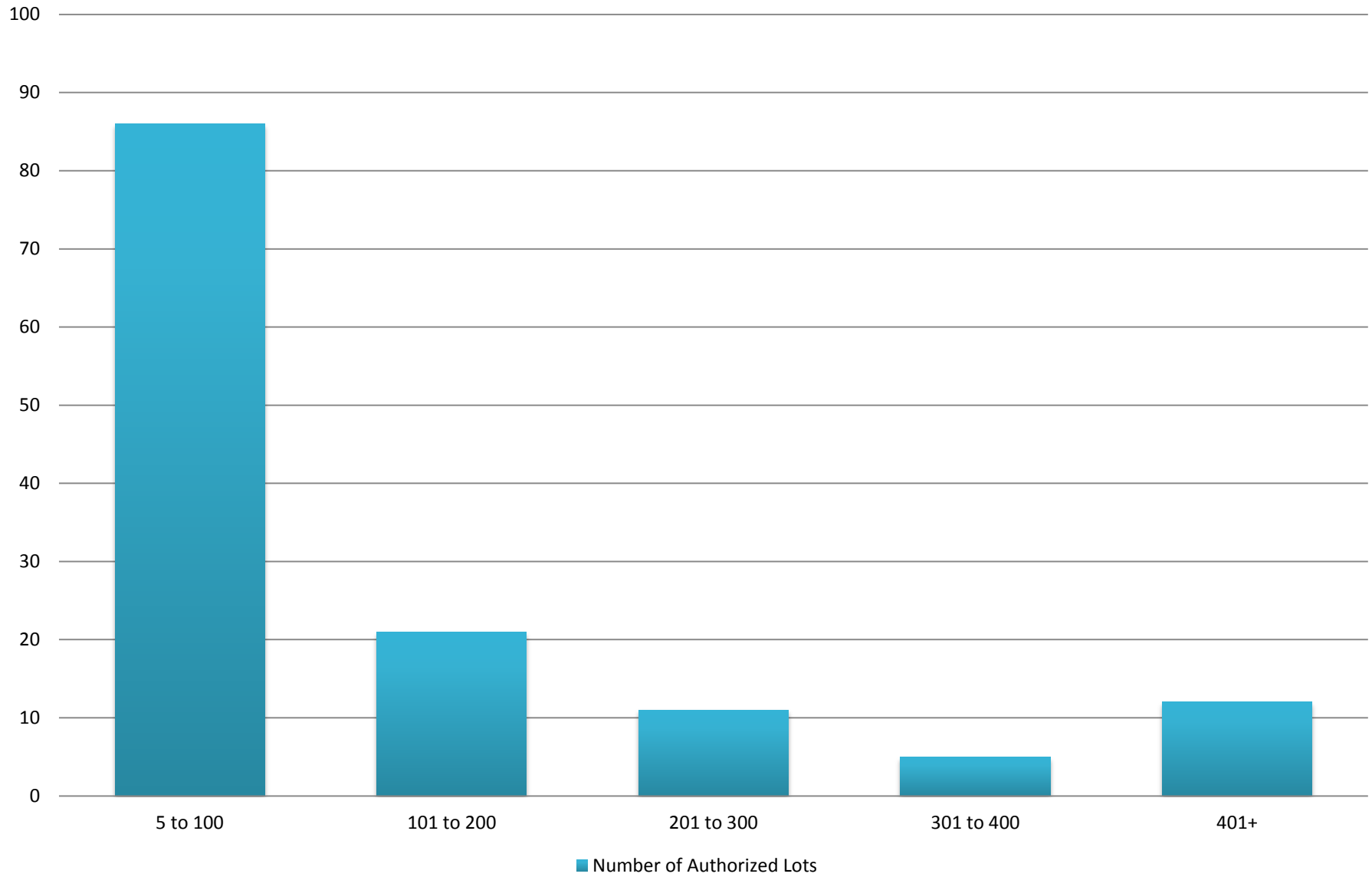
Increased emphasis on:

- **Field visits and Inspections:** *To renew contact with utility owners and inspect water systems.*
- **Awareness and Education:** *Provide information on current standards, management approaches and available resources to assist utility owners and others.*
- **Compliance and Enforcement:** *Expanding our C&E activity through FLNRO Compliance Branch and development of additional C&E tools.*
- **Build-up Replacement Reserve Funds:** *Encourage and in some cases order a higher percentage of rates to be set aside for system component replacements.*
- **Revenue Deficit Funds:** *New utilities are required to deposit sufficient funds to make up revenue shortfalls especially in initial stages of development build-out.*
- **Integrated Approach to System Issues:** *Work with other provincial regulators and ministries, UBCM, local governments, the Health Authorities and water system associations to address small water system issues.*
- **Amendments to Escheat Act:** *With Ministry of Justice and Attorney General investigate ways to prevent water systems escheating to the Crown.*
- **Local Government Water System Ownership:** *Encourage adoption of Water System Acquisition Strategies by Regional Districts, and their being the first option for providing water service to new developments.*

Regulated Private Water Utilities



Regulated Private Water Utilities by Authorized Lots



Regulated Private Water Utilities by Utility Type

