



bcuc
British Columbia
Utilities Commission

Commissioner Policy - Peer Review of BCUC Decisions

October 2020

CONTEXT AND SCOPE

This policy applies to the review of proposed final substantive orders and reasons before their issuance by the British Columbia Utilities Commission (BCUC). This policy is essential in light of the decision in Shuttleworth v. Ontario (Safety, Licensing Appeals and Standards Tribunals), 2019 ONCA 518. In Shuttleworth, the Ontario Court of Appeal found that the tribunal chair's review of another adjudicator's decision before it was released was not a purely qualitative or editorial exercise but included determinations of whether the correct legal test and jurisprudence had been identified and applied. The absence of a written peer review policy confirmed that the tribunal had not communicated to adjudicators that they had the right to decline to adopt the tribunal chair's comments and opinions.

The purpose of this policy is to clarify that the decision-making authority rests with the Panel notwithstanding any peer review.

BCUC Statement of Policy on Peer Review of Decisions

Before a BCUC Panel releases a final substantive order and reasons for decision to the public, the BCUC Chair and CEO will review these documents. The BCUC Chair and CEO performs this review for several reasons:

- to review the clarity, format, tone, and rationale of the decision and to suggest editorial changes;
- to ensure consistency in decision-making, and where there is a departure from past practice, that the inconsistency is explained;
- to ensure that he/she is informed about the outcomes of current proceedings; and
- to enable him/her to answer questions about the decision from the public, media, or government about what the decision means and the policy implications of the decision once it is released.

The BCUC Chair and CEO may also request that the Deputy Chair and the Chief Operating Officer conduct such review in his/her place or in addition thereto.

Before issuing its decision, the Panel will consider the reviewers' comments and suggested editorial changes but may decline to reflect them in the final decision. The Panel is accountable for its own decision.