

EQUALITY IMPACT STATEMENT: HOME HEATING

December 2011



Name of Legislation or Policy

*British Columbia Utilities Commission Act (1996)*¹, *Demand Side Measures Regulation (2008)*², BC Energy Plan: A Vision for Clean Energy Leadership³

In particular, S. 59 of the *British Columbia Utilities Commission Act* is intended to protect individuals from discrimination including:

59 (1) A public utility must not make, demand or receive

(a) an unjust, unreasonable, unduly discriminatory or unduly preferential rate for a service provided by it in British Columbia, or

(b) a rate that otherwise contravenes this Act, the regulations, orders of the commission or any other law.⁴

Purpose and History of legislation

British Columbia Utilities Commission (BCUC) regulates public utility operation and is governed by the *Utilities Commission Act*. The Commission has the responsibility to review all the required actions of the public utilities and then accept or reject their proposals keeping in mind the requirements of BC Energy Plan⁵. The BC Energy Plan aims to increase energy efficiency and reduce greenhouse gas emissions. Importantly, the BC Energy Plan encourages the BCUC to look for cost-effective demand side management programs. Demand side regulations and programs are targeted directly at consumers with the goal of shifting consumer behavior.

The *Utilities Commission Act (UCA)* requires that public utility companies file long-term resource plans with the BCUC for approval, develop demand side measures to reduce forecast demand, and estimate how much such measures would reduce consumer demand. Additionally the UCA requires that BC Hydro plan long-term demand-side measures to contribute to a 50% reduction in the expected demand increase by 2020.⁶

¹ *Utilities Commission Act*, RSBC, 1996, online:

<http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96473_01>

² Demand Side Measures Regulation, BC Reg 326/2008, online:

<http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/10_326_2008>

³ Ministry of Energy and Mines and Responsible for Housing, "BC Energy Plan: A vision for Clean Energy Leadership", 2009, online < <http://www.energyplan.gov.bc.ca/>>

⁴ *Utilities Commission Act*, *supra* note 2, s 59

⁵ *Ibid.*

⁶ Maine McEachern and Jill Vivian, "Conserving the Planet Without Hurting Low-Income Families: Options for Fair Energy-Efficiency Programs for Low-Income Households" University of Victoria Environmental Law Centre, April

In 2009, demand-side measure regulation (DSMR) became applicable to all major utilities.⁷ DSM regulation requirements force utilities to include in their long-term resource plan a low-income⁸ energy efficiency program in order for their overall proposals to be considered adequate under s. 44.1(8)(c) of the *Utilities Commission Act*. The DSMR also requires utilities to provide energy efficiency programs specifically for rental housing. Finally, in developing the cost benefit analysis the utilities are required by subsection 4(2)(a) and (b) of the DSMR to give a value of 130% to lower-income energy efficiency programs.⁹

The current billing structure of BC Hydro includes a two tier structure which attempts to penalize bigger consumers of electricity. BC Hydro introduced this rate structure in order to meet energy efficiency requirements in the BC Energy Plan. The Demand Side Regulations came into force a year later and seem to be an attempt to balance energy efficiency concerns with the needs of low-income individuals and renters.

Vulnerable groups identified

West Coast LEAF identified two groups who may be particularly vulnerable to the impacts of the legislative framework surrounding home heating: low-income individuals in rural communities, and single mothers.

Methodology

West Coast LEAF conducted a literature review from a wide variety of sources focusing on energy poverty and gendered analysis of climate change. In addition, West Coast LEAF reviewed the legislation and regulations as well as the Hansard debates from the provincial legislature for the years surrounding major revisions to the *Act* and the introduction of DSM.

West Coast LEAF conducted a very limited consultation with community organizations and legal advocates in a small rural community in the north that receives electricity services from BC Hydro and natural gas through Pacific Northern Gas. The Equality Impact Statement would benefit from a wider consultation with individuals living in regions covered by other utility companies.

2010, online: < <http://www.elc.uvic.ca/press/documents/Conserving-planet-without-hurting-low-income-families-April2010-FINAL.pdf>> at 31

⁷ McEarchern, *supra* note 5 at 32

⁸ Canada and BC have no clear definition of poverty, relying on a low income cut-off rate (LICO). LICO takes into account the average spending on basics such as food, clothing and shelter, and defines low income as families which are forced to spend a greater portion of their income on these necessities. LICO varies according to family size and place of residence.

⁹ McEarchern, *supra* note 5 at 33

Summary of Equality Impacts

This equality impact statement is tackling the concept of energy poverty. In BC the definition of energy poverty that is commonly used is when a household must spend 10% or more of its after-tax income on heating their home.¹⁰ Energy poverty is determined through three main factors: energy efficiency of the home, household energy costs, and household income. Low income homes are more likely to be experiencing energy poverty. 63% of low income homes have a female primarily responsible for paying the bill.¹¹ One in four low income homes have children under 12 in the home as compared to 17% of households that are not low income.¹² Over half (54%) of low income households are living in homes with single pane windows.¹³

BC Hydro is the primary electrical utility in the province except in BC's southern interior, where Fortis BC delivers both electricity and natural gas to customers. According to Fortis BC's own materials they provide for 21% of the province's total energy consumption and are the primary supplier of natural gas used for home heating in BC.¹⁴ Pacific Northern Gas is the other major supplier of natural gas in the province with approximately 40,000 residential, commercial and industrial customers in the north.¹⁵ Additionally, there are a few municipalities: Grand Forks, Nelson, Kelowna and New Westminster who purchase energy and gas from BC Hydro or Fortis and deliver the service through their own infrastructure. For areas where there is no natural gas service available home heating options for households are limited to electric or oil.

Low income individuals in rural communities:

To fully understand the impact of the regulations surrounding home heating on low income individuals, it is important to paint a picture of who falls into this category in British Columbia:

Over all, a woman is more likely to be poor than a man and those factors increase if the woman is a newcomer to Canada, a lone parent, Aboriginal and/or living with a disability. 20.9% of female lone-parent families are low-income as compared to 5.5% of married couples and 7% of male lone-parents¹⁶. Immigrant girls and women are twice as likely to be living in a low-income situation as Canadian-born girls and women¹⁷. These inequalities only increase when looking at women with disabilities or Aboriginal women.

¹¹ McEarchern, *Supra* note 6 at 23

¹² *Ibid.*

¹³ *Ibid* at 24

¹⁴ Fortis BC, "Media Centre", online:

<<http://www.fortisbc.com/MediaCentre/FortisBCSharedIdentity/Pages/default.aspx>>

¹⁵ McEarchern, *Supra* note 6 at 30

¹⁶ Statistics Canada, "Economic Well Being", No 89-503-X (Ottawa: StatCan, December 2010), online:

<<http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11388-eng.pdf>>

¹⁷ Statistics Canada, "Immigrant Women", No 89-503-X (Ottawa: StatCan, July 2011), online:

<<http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11528-eng.pdf>>

Low income individuals are more likely to live in a home which needs repair. In addition Aboriginal individuals are disproportionately (18.4% in BC) represented among those who are living in a home that requires major repairs¹⁸. Aboriginal individuals living in housing on-reserve are at an even higher risk as they are 3.3 times more likely to be living in housing that is in need of major repair.¹⁹ In addition, 47.6% of Aboriginal people in BC live in rental accommodation as compared to 33.4% of the general population of British Columbia.²⁰

Single mothers:

Female lone parent families have the lowest income by family type; in 2008, female lone parents on average earned \$42,300 as compared to the average income of \$60,400 for male lone parent households. This translates to 20.9% female lone parents being defined as low income as compared to 7% of male lone parent families.²¹ In 2006 in Canada 52.5% of single mothers owned their own home. Over one in four families with children in BC are headed by lone parents; 80% of these households are led by single mothers.²² Lone parenthood is even more common among Aboriginal families; in many urban areas of Canada the proportion of Aboriginal households headed by a lone parent is double that of non-Aboriginals.²³

Both lone mothers and service providers identify the lack of safe affordable housing as the most critical issue affecting single parent families.²⁴ Single mothers who rent their homes are particularly vulnerable to housing insecurity; 42% of renter families headed by female lone parents had housing affordability problems in 2003.²⁵

Energy efficiency of the home:

There are several programs which attempt to meet energy efficiency concerns. Each program has its own name and is operated through a different company, government level or department so for individuals trying to self-advocate, it can feel like a maze.

BC Hydro's specific low-income program is called The Energy Conservation Assistance Program (ECAP). Those who qualify receive a home energy evaluation, installation of energy saving products, and efficiency advice for free. The energy saving products that may be installed related to heating households are water heater pipe wrap and blanket, weather stripping, caulking and outlet gaskets, and insulation for attics, walls and crawlspaces.²⁶ As well BC Hydro Power Smart extends ECAP for housing organizations with multiple units. To

¹⁸ Catherine Palmer and Associates Inc., "Comprehensive Needs and Capacity Assessment of Aboriginal Housing in British Columbia", March 2007, online:

<<http://www.bchousing.org/resources/Programs/AH/Aboriginal%20Housing%20Report.pdf>> at 14

¹⁹ *Ibid.* at 19

²⁰ *Ibid.* at 14

²¹ Stats Can, *supra* note 18

²² Statistics Canada 2006, "Census families in private households by family structure and presence of children, by province and territory" (2006 Census), online: <<http://www40.statcan.gc.ca/l01/cst01/famil54c-eng.htm>>.

²³ Statistics Canada 2005, "Aboriginal People Living in Metropolitan Areas", online: <<http://www.statcan.gc.ca/daily-quotidien/050623/dq050623b-eng.htm>>

²⁴ *Ibid.* at 9

²⁵ *Ibid.*

²⁶ "Energy Conservation Assistance Program" (September 9, 2011), online: BC Hydro <http://www.bchydro.com/powersmart/residential/ps_low_income/energy_conservation.html>

qualify there is an evaluation of average energy consumption of the complex and the organizations low income criteria. The City of New Westminster has partnered with BC Hydro and offers ECAP to its customers as well.²⁷ Unfortunately, ECAP is only available on Vancouver Island and in the Lower Mainland. This exclusion of the BC interior is concerning as the cold weather can create dangerous conditions for individuals who are not able to afford the home repairs which would help keep their energy bills at a more reasonable rate.

The Federal government provides an ecoENERGY retrofit grant of up to \$5000 to homeowners and property owners who make energy efficient improvements on their homes.²⁸ The province of BC, partly through initiatives of the BC Energy Plan, is providing the LiveSmart BC grants for homeowners to improve energy efficiency.²⁹ There are also low interest renovation loans, such as the Vancity Bright Ideas Loan and The Royal Bank of Canada Energy Saver Loan.

The CCPA report titled *Fighting Energy Poverty in the Transition to Zero-Emission Housing: A framework for BC* describes the *free rider* effect where individuals who would have completed efficiency upgrade regardless are taking advantage of government subsidies.³⁰ The reality of low income home ownership is that there are very little savings in place to do home repair. The disproportionate number of single mothers and Aboriginal people living in poverty also translates to a disproportionate number of single mothers and Aboriginal people living in homes which are in need of major repair. One advocate living in a northern community described a client whose heater broke down early in the fall. The client had no savings and when she applied to an energy program for assistance in replacing a non-functioning furnace, all of the money allocated to the program had been dispersed. The reality of poverty is that one cannot predict the need for major repair, and individuals are not able to afford the basic maintenance that would allow for prevention and identification of potential risks for breakdown. Programs should be targeted to meet the needs of low income individuals and adequately funded so that low income individuals can access efficiency programs at any point in the year.

Fortis BC and BC Hydro also offer low-income energy saving kits which include items to make homes more energy efficient. In regards to home heating, the kit includes weather stripping, window film, pipe insulation, and outlet and switch gaskets.³¹

Advocates from a small community identified that these efficiency programs are virtually inaccessible to low income individuals living in the North. One advocate described how the local gas stations had to switch from incandescent light bulbs to fluorescent lighting because individuals were stealing light bulbs so they could use them in their own homes. When energy poverty is at the level of not being able to afford basic necessities such

²⁷ “More Power Smart incentives now available to New Westminster customers”, online: BC Hydro <http://www.bchydro.com/news/articles/press_releases/2007/more_power_smart_incentives_now_available_to_new_westminst.html>

²⁸ “ecoENERGY Retrofit – Homes” (October 18, 2011), online: Government of Canada <<http://www.ecoaction.gc.ca/ecoenergy-ecoenergie/retrofit-homes-renovation-maisons-eng.cfm>>

²⁹ “LiveSmart BC.ca: Efficiency Incentive Program” (August, 2011), online: <<http://www.livesmartbc.ca/attachments/LiveSmart-Home-Incentives.pdf>>

³⁰ Marc Lee, Eugene Kung and Jason Owen, “Fighting Energy Poverty in the Transition to Zero-Emission Housing: A framework for BC”, Canadian Centre for Policy Alternatives (September 2011), online: <http://www.policyalternatives.ca/sites/default/files/uploads/publications/BC%20Office/2011/09/CCPA-BC_Fighting-Energy-Poverty.pdf>

³¹ BC Hydro, “Energy Saving Kit Offer”, online: <http://www.bchydro.com/powersmart/residential/ps_low_income/energy_saving_kits.html?WT.mc_id=freetkit>

as light bulbs, then weather stripping, window film and other energy efficiency materials are out of the range of most individuals. The low-income energy saving kits offer partial help for these individuals but there needs to be a more systemic solution which considers the depth of the challenges faced by families experiencing energy poverty.

Household Energy Costs and Household Income:

The strongest comment received from community organizations in regard to individuals' experiences of energy poverty is that people simply do not have enough money to pay for utilities once rent or mortgage payments are made and groceries are purchased. For renters, the disconnection of gas or hydro can put them in a breach of their tenancy agreement and trigger an eviction. This places a double burden on low income renters who have very little control over the repair of their home and therefore their utilities costs.³² Individuals living in Northern communities identified that it was impossible to separate utilities pricing from tenancy.

For individuals living on welfare the primary root for their energy poverty was the *Employment and Assistance Act*³³ rather than the legislation surrounding home heating. The average two-bedroom apartment cost in Terrace in the spring of 2010 was \$612. A single employable mother of one child receives a maximum shelter rate of \$570 and an approximate support payment of \$375.58, as well as \$123.50 for her child under the BC Family Bonus, for a total of 1069.08 per month.³⁴ This amount leaves \$457.08 per month for groceries, utilities, transportation, clothing and any additional school costs. The BC Dietitians estimate that the average cost of providing healthy balanced meals for a mother between the age of 19 – 30 and a daughter between the ages of 9 – 13 at \$378.82.³⁵ Clearly, this mother would have to make decisions between offering healthy food and other necessities. Advocates identify that individuals on welfare are forced to rely on crisis grants to address increased energy costs in the winter. Unfortunately, crisis grants offer a maximum of \$900 per year so an individual must hope that either the spring or the fall is short in order to balance her energy needs together with her other needs.

Gendered home heating and climate change:

Given the realities of climate change and the finite nature of resource extraction it is reasonable to assume that energy poverty may deepen and grow in coming years. There needs to be structures put in place now which could help low income individuals adapt to climate change as well as to contribute to mitigation strategies through reducing energy use. The reality of low income housing, either rental or owned, is that individuals have little control over their energy efficiency. Any measures which would substantially increase energy efficiency such as updating furnaces, refrigerators or replacing single pane windows falls firmly under the responsibility of the landowner. Although individual action is an important part of addressing climate change, we must pressure governments to have clear strategies to address climate change with systemic solutions. Changing our light bulbs and turning out the lights is an important step in increasing energy efficiency but it pales in comparison to the scope that government can address through progressive policy and action on energy efficiency.

³² Lee, *Supra* note 37 at 20

³³ *Employment and Assistance Act*, SBC, 2002, c. 40, online: <<http://canlii.ca/s/abul>>

³⁴ Ministry of Social Development, "BC Employment and Assistance Rate Tables", online: <<http://www.eia.gov.bc.ca/mhr/ia.htm>>

³⁵ Dietitians of Canada, BC Region and the Community Nutritionists Council of BC, "The Cost of Eating in BC 2009: Low-income British Columbians Can't Afford Healthy Food", 2009, online: <http://www.dietitians.ca/Downloadable-Content/Public/BC_CostofEating_2009-%281%29.aspx> at 10

Another challenge in adequately addressing growing climate change concerns is the lack of data in BC on greenhouse gas emissions disaggregated by gender, Aboriginal identity, race or disability. Additionally, any data that does exist is often based on household usage. By looking at households as a single unit we are masking gendered divisions of labour, physical mobility, and who is participating in decision making at a household level.³⁶ When there is not a clear picture of how energy use is gendered there is a risk of penalizing women's energy usage disproportionately, as compared to men.³⁷ Due to gendered roles and responsibilities in regard to household labour women are more likely to be using high levels of energy for cooking, cleaning and care of children. A gendered analysis must be applied when looking at policy in regard to household energy usage.

Recommendations for mitigating actions

- Create a separate utilities allowance that would be combined with shelter and support allowance to increase the amount that individuals receive on social assistance. The reality is that housing costs have outpaced the shelter allowance which leaves individuals receiving social assistance without any resources to address rising utilities costs.
- One of the challenges in creating policy which does not exacerbate already existing inequalities is the lack of data on household energy usage disaggregated by gender, race, Aboriginal identity, and disability. Further, this information should be broken down by energy usage within the household. It is impossible to build comprehensive policy without adequate data.
- Target energy efficiency programs to low income households and ensure adequate funding so the programs are available year round.
- Ensure that all utilities live up to their obligations under S. 3 of the DSMR to provide programs for low income individuals to reduce their energy consumption as well as measures to address the energy efficiency of rental accommodations.³⁸
- S. 59 of *the Act* should not be interpreted in a way which requires that low-income individuals pay the same rate as higher income earners.

³⁶ Terry, Geraldine, "No Climate Justice Without Gender Justice: An Overview of the Issues" (2009) 17:1 Gender & Development 5

³⁷ *Ibid.*

³⁸ DSMR, *Supra* note 2

This Equality Impact Statement is a description of the possible or actual gendered impacts of the legislation, which were explored in more depth in the Background. While the EIS may raise possible breaches of the Charter worth further research and consideration, it is not an application of the Charter or Charter jurisprudence - rather, it is the application of Gender-Based Analysis and international Gender Development tools created and applied around the world.



West Coast LEAF's mandate is to achieve equality by changing historic patterns of systemic discrimination against women through BC-based equality rights litigation, law reform and public legal education.

www.westcoastleaf.org

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