OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS
43RD ANNUAL GENERAL ASSEMBLY
SEPTEMBER 14TH – SEPTEMBER 16TH, 2011
WHISTLER, B.C.

Resolution no. 2011-34

RE: Utilities Refusal to Honour Tax Exemption on Reserve

WHEREAS energy utility and telecommunication companies in BC (i.e. Telus, Fortis BC, BC Hydro, Shaw Cable, Rogers, etc) are charging First Nations and their members living on reserve taxes that the First Nations are exempt from paying under s.87 of the *Indian Act*, which applies to goods bought on, or delivered to, a reserve;

WHEREAS many of the utility companies are aware of the fact that they are charging taxes incorrectly but have internal reverse onus policies with respect to First Nation tax exemption (meaning the onus for tax exemption rests with the customer and the company will only apply tax exemption if it is pointed out by the First Nation customer);

WHEREAS the utility companies owe many years of back taxes to First Nations individuals and communities;

WHEREAS the United Nations *Declaration on the Rights of Indigenous Peoples* sets out in Article 40 that "Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights."

Certified copy of a resolution adopted on the 15th day of September of 2011 in Whistler, British Columbia

Grand Chief Stewart Phillip, President

WHEREAS the utility companies have the ability to proactively put into place systems to address their incorrect collection of taxes from First Nations but prefer to save administrative dollars by ignoring the issue;

WHEREAS some of the utility companies have a policy of only reimbursing the collection taxes for a period of two years and only if their customer first identifies themselves and submits paperwork requesting reimbursement;

WHEREAS some utility companies who are aware that they are incorrectly collecting taxes from First Nations on reserve may be in breach of the Federal and Provincial Tax legislation.

THEREFORE BE IT RESOLVED the UBCIC Chiefs-in-Assembly demand that utility and telecommunications companies must be creating systems to proactively identify their non-taxable accounts;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs-in-Assembly direct the UBCIC Executive to communicate to the utility and telecommunications companies in BC, that they should immediately start reimbursing all of the accounts that have had taxes incorrectly collected, and seek written assurances that they will honour all taxation exemptions in the future as per s.87 of the *Indian Act*; and

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs-in-Assembly direct the UBCIC Executive to look into the potential of a class action suit again utility and telecommunications companies that are not reimbursing the incorrectly collected taxes and that continue to knowingly tax First Nations incorrectly.

Moved: **Chief Nelson Leon, Adams Lake Indian Band**
Seconded: **Kukpi7 Wayne Christian, Splatsin**
Disposition: **Carried**
Date: **September 15th, 2011**

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Grand Chief Stewart Phillip, President