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BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER G-23-94

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AN ORDER IN THE MATTER OF the Utilities Commission
Act, S.B.C. 1980, c. 60, as amended

and

An Application by West Kootenay Power Ltd.

BEFORE: M.K. Jaccard, Chair; and)
K.L. Hall, Commissioner) March 18, 1994

ORDER

WHEREAS:

- A. On October 25, 1993 West Kootenay Power Ltd. ("WKP") applied to the Commission ("the Application"), pursuant to Section 33(2) of the Utilities Commission Act ("the Act") for permission not to supply any new services to the Penticton Indian Band ("the Band") from the No. 49 Line that has become overloaded due to customer growth in the Summerland and surrounding areas; and
- B. The Band has refused to allow WKP to reconductor the No. 49 Line through the Reserve as a result of a right-of-way dispute between the Band and WKP; and
- C. On December 7, 1993 the solicitors representing the Band advised the Commission of the potential damage to customers should WKP continue to refuse service; and
- D. On December 8, 1993 WKP withdrew its October 25, 1993 application to refuse service and commenced to allow the reconnection of power to a water pump on the Reserve; and
- E. On February 28, 1994 the solicitors for the Band advised the Commission that WKP has refused to provide service to six new homes on the Reserve and claimed that the utility was acting in a discriminatory manner. The solicitors also requested that WKP immediately connect the six new homes on the Reserve, pursuant to Sections 44 and 45 of the Act; and
- F. On March 11, 1993 WKP applied to the Commission to refuse service to any new additional customers from No. 49 Line other than those located on the Penticton Indian Band Reserve where the line needs to be upgraded; and
- G. WKP requested the granting of relief from service to new customers and that the Commission hold a public hearing in Summerland, B.C.; and
- H. The Commission has considered the evidence and finds that a review of the dispute is necessary and in the public interest.

NOW THEREFORE the Commission orders as follows:

- 1. A meeting to seek a mutually satisfactory resolution into the disputes between WKP and the Penticton Indian Band concerning both the right-of-way of the No. 49 Line through the Reserve and the refusal by WKP to connect new customers, will be held in the Commission offices commencing at 2:00 p.m. on April 6, 1994. Mr. W.J. Grant, Executive Director of the Commission will chair the meeting and report to the Commission.

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2. If the dispute cannot be resolved by direct discussions, the Commission will consider holding a public hearing in Summerland, B.C.
3. The Commission will consider the Application by WKP to limit new customer service, if necessary following the aforementioned meeting.

DATED at the City of Vancouver, in the Province of British Columbia, this 21st day of March, 1994.

BY ORDER



Dr. Mark K. Jaccard
Chairperson