

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. V6Z 2N3
CANADA



BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER G-17-98

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

An Application by West Kootenay Power Ltd.
for a Certificate of Public Convenience and Necessity to Relocate its
No. 49 Transmission Line from Penticton to Summerland
and Complaints into Commission Order No. C-9-97

BEFORE: P. Ostergaard, Chair)
L.R. Barr, Deputy Chair) February 12, 1998

O R D E R

WHEREAS:

- A. Commission Order No. C-9-97, approved for West Kootenay Power Ltd. ("WKP") its application for a Certificate of Public Convenience and Necessity ("CPCN") to relocate and rebuild its No. 49 Transmission Line from Penticton to Summerland, B.C.; and
- B. Following receipt of complaints into the routing of the No. 49 Transmission Line, the Commission issued a stop-work order for the 10.6 km section near Penticton, B.C. Commission Order No. G-130-97 set the matter down for a Public Inquiry which was held on December 19, 1997; and
- C. The Inquiry Officer received submissions from the public and issued his Inquiry Report on January 8, 1998. The Commission, by Order No. G-12-98, accepted the Inquiry Officer's Report and released the stop-work order on the portion of the line from the Huth Avenue substation to the West Bench substation. Further comments and submissions were requested to be received by January 28, 1998; and
- D. The Commission received and reviewed additional submissions and input from the public and WKP, including soil stability reports and options for relocating the affected portion of the No. 49 Line in the West Bench and Sage Mesa areas.

NOW THEREFORE the Commission orders as follows:

1. The Commission approves the rebuilding of WKP's Transmission Line No. 49 in the West Bench and Sage Mesa areas using Option 5 as the preferred route. WKP is to commence negotiations for the Option 5 route in accordance with Reasons for Decision attached as Appendix A to this Order. If agreement is not possible, WKP must either expropriate the required lands, pursuant to the West Kootenay Power and Light Company, Limited, Act, 1897, as amended, and the Expropriation Act, or build along the Option 1 route, which the Commission considers is the second-best option.
2. The Commission removes the stop-work order for WKP on Line No. 49 imposed by Order No. G-130-97.
3. WKP is to provide the Commission with monthly reports on the progress of right-of-way acquisition and construction in order for the Line No. 49 reconductoring to be completed by the Summer of 1998.
4. A copy of this Order and Reasons for Decision will be sent to all parties registered with the Commission.

DATED at the City of Vancouver, in the Province of British Columbia, this 18th day of February, 1998.

BY ORDER

Original signed by:

Peter Ostergaard
Chair

Attachment

REASONS FOR DECISION

BACKGROUND

On November 12, 1997 the Commission, by Order No. C-9-97, approved West Kootenay Power Ltd.'s ("WKP") application for a Certificate of Public Convenience and Necessity ("CPCN") to rebuild and relocate Line No. 49. The purpose of the CPCN is to upgrade transmission service to Summerland since the existing line has reached its capacity. The CPCN identified that WKP was to resolve local routing concerns and that any unresolved disputes should be referred to the Commission. Subsequently, the Commission received a number of complaints and a request from the City Council of Penticton to stop the work and allow additional public input on the route selection. The Commission issued Order No. G-130-97 which halted all work and appointed Commissioner Kenneth L. Hall to hold a Public Inquiry into the routing, relocation and possible alternative routes. The Public Inquiry was held on December 19, 1997 and resulted in an Inquiry Report to the Commission. The Commission accepted the Inquiry Report and issued Order No. G-12-98 which lifted the stop-work order for a portion of the line and requested further submissions regarding options for the portion of the line through the West Bench and Sage Mesa areas. Submissions were required to be received by January 28, 1998.

The Commission received submissions from 14 individuals and WKP. WKP received comments from an additional 4 individuals. The Commission has considered all the submissions and it is apparent that the individual interests of the landowners makes a consensus impossible.

During the submission period, WKP held a number of meetings to explore various options and mitigation measures with the affected residents and has summarized the options as follows:

Option 1: This alignment utilizes the existing right-of-way from the West Bench substation to Sage Mesa Drive, then east to Highway 97 and North along Highway 97. This option has all necessary approvals for the right-of-way. Mitigation measures proposed for this alignment include adding a jog to the line as it proceeds down Sage Mesa Drive to minimize the visibility to the Verona Place residents (particularly Mr. Winchester) and undergrounding the B.C. Tel line for approximately 400 meters along Highway 97 where the line passes in front of the Verona Place residences. This undergrounding will allow shorter, 69 kV poles to be built and will minimize the visual impact for residents overlooking the highway. Distribution circuits will remain as built.

- Option 2: This alignment would utilize the existing right-of-way from the West Bench substation to the north end of the Sage Mesa development and exit to the highway through Penticton Indian Band land.
- Option 3: This option is similar to Option 2, however, access to the highway at the north end of the Sage Mesa development would utilize a piece of property owned by the owners of the golf course. For Options 2 and 3, individual pole locations would create additional impacts on existing owners with lots on the right-of-way or, alternately hot line stringing techniques would have to be employed.
- Option 4: This alignment utilizes a gully on the south side of the golf course to exit the present right-of-way to Highway 97. Geotechnical studies from Golder Engineering state that this area is unstable and will require extensive additional drainage and slope stabilization work to place poles in the gully. Geotechnical advice from Fletcher Engineering (hired by the Chapmans) acknowledges the instability of the area and advises that remedial work would be required.
- Option 5: This alignment utilizes the present right-of-way from the West Bench substation to approximately half-way across the golf course and then exits the golf course east to the highway and thereafter north along the highway
- Option 6: This option is a modification of Option 4 which would see the line traverse the top of the gully with the last structure located in the mouth of the gully near the highway.

For Options 4, 5, and 6 the distribution circuit on the present line across the golf course would be moved to the new alignment necessitating undergrounding of the distribution circuits as well as the B.C. Tel cable along the highway in front of the Verona Place residences to minimize the visual impact. These options also require the owners of the golf course to provide another right-of-way at the north end of the Sage Mesa development to allow the distribution circuits to reconnect the supply to Sage Mesa.

COMMISSION FINDINGS

The Commission rejects Option 2 as it necessitates another set of negotiations with the Penticton Indian Band who have indicated they are not interested in giving WKP another right-of-way. This option has technical problems and would result in greater public inconvenience than other options. In addition, any negotiations may be lengthy and would jeopardize an in-service date by the Summer of 1998.

Option 3 would probably require expropriation of the Chapman's land at the north end of Sage Mesa. Mr. Chapman is the owner of the golf course and has indicated he will not grant a right-of-way over his property. In addition, a number of residents of the Sage Mesa development will have new poles placed on their lots in a very congested area. The delays resulting from expropriation proceedings and the placement of new poles in a congested area suggest a rejection of this option as well.

Options 4 and 6 are rejected on geotechnical grounds as the gully is too unstable. It is imperative that the community of Summerland be reinforced with transmission service that will be reliable and not subject to failure due to soil instability.

This leaves Options 1 and 5 as possible routes. The financial cost differences between these options is not large and the Commission believes its decision should be based on local public impacts. Option 5 (with the undergrounding of the distribution line) is the preferable option as it impacts the least number of people and provides some measure of relief to Mr. Chapman. If negotiations between Mr. Chapman and WKP are unsuccessful, an alternative would be to expropriate a new right-of-way, as necessary.

Therefore, the Commission directs WKP to negotiate with the Chapmans for a right-of-way along the Option 5 route. If an agreement is not possible, WKP must either expropriate the required lands or build along the Option 1 route where all approvals are in place, to ensure that reinforcement of Summerland is completed for the Summer of 1998.