



LETTER NO. L-3-02

ROBERT J. PELLATT
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VIA FACSIMILE
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January 17, 2002

Mr. Hans Karow
Coalition to Reduce Electropollution
S32, C6, RR1
8384 Road No. 15 (End of Road)
Oliver, B.C. V0H 1T0

Dear Mr. Karow:

Re: UtiliCorp Networks Canada Ltd. ("UNC")
(formerly West Kootenay Power Ltd.)
Ootischenia Water and Land Stewardship
Committee Action Group ("Ootischenia Action Group")
Complaint regarding the 230 kV Transmission Line through Ootischenia

This is in response to your letter of December 7, 2001 in which you request additional information from UNC, and your letter of December 10, 2001 which, pursuant to Section 99 of the Utilities Commission Act, you request a reconsideration of the Commission's Decision of October 25, 2001.

In regard to your letter of December 7, 2001, the Commission previously ruled on this matter in its letters to you of July 3, August 14 and December 13, 2001 and has advised you that further information on Electromagnetic Fields profiles will be available when UNC files its detailed proposed alignment through Ootischenia. If, at that time, you require more information, the Commission will consider your request based on your justification and the relevance of your request to the Commission proceeding.

With regard to your letter of December 10, 2001, the Commission must once again bring to your attention the fact that it is within the discretion of the Commission to accept and ultimately allow or reject a request for reconsideration made under Section 99 of the Utilities Commission Act.

According to principles established in a number of reconsideration proceedings, the applicant must demonstrate, on a prima facie basis, the existence of one or more of the following:

1. The Commission has made an error in fact or law;
2. There has been a fundamental change in circumstances or facts since the decision;
3. A basic principle had not been raised in the original proceedings; or
4. A new principle has arisen as a result of the decision in question.

In addition, if a reconsideration is to be considered on the basis of an allegation of error, then the applicant must show that:

- The claim of error is substantiated on a prima facie basis; and
- The error has significant material implications.

The Commission will exercise its discretion to reconsider in other situations where it considers there to be just cause. However, the decision to allow reconsideration is not taken lightly. The Commission's discretion to reconsider and vary a decision or order is applied with a view to ensuring there is consistency and predictability in the Commission's decision making process. Reconsideration is not a vehicle for intervenors to reargue their previous submissions just because they do not agree with Commission's determinations.

The Commission believes your request of December 10, 2001, as presently worded, appears to be largely a reargument of the position you adopted in your submissions prior to the Commission's decision from which you seek a reconsideration punctuated at various places with arguments on why you believe the Commission has erred. In its present form your submission requires a significant amount of reconstruction to ensure that the Commission has an accurate understanding of the points you seek to raise in the context of the criteria outlined above. The Commission, therefore, will not accept your submission in its present form.

If you wish to request a reconsideration of the Commission decision it is incumbent upon you to organize your arguments according to the Commission guidelines above and present prima facie evidence to demonstrate why the Commission should reconsider its decision. For example, you should consider the use of headings which match the Commission criteria and then list under the particular heading your arguments in support of your request for reconsideration.

The Commission also notes that your December 10, 2001 submission appears to contain arguments and recommendations that the project should have been evaluated under the Environmental Assessment Act. The Commission wishes to advise you that it does not have the authority to evaluate the project under the Environmental Assessment Act. Your submissions in that regard should be sent to the Environmental Assessment Office.

Yours truly,

Original signed by:

Robert J. Pellatt

RWR/mmc

cc: Sheila Wynn, Deputy Minister
Environmental Assessment Office
(via facsimile: 250,256-7440)
Mr. George Isherwood
Manager Rates & Contract Administration
UtiliCorp Networks Canada (British Columbia) Ltd.