



**ORDER NUMBER
G-280-20**

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

Kyuquot Power Ltd.
Investigation into the Safety and Reliability of the KPL System

BEFORE:

D. M. Morton, Commissioner
C. Brewer, Commissioner
T. A. Loski, Commissioner

on November 3, 2020

ORDER

WHEREAS:

- A. By email dated February 13, 2020, a representative of the Ka:'yu:'k't'h' / Che:k'tles7et'h' First Nations (KCFN) filed a complaint with the British Columbia Utilities Commission (BCUC) concerning, amongst other things, a safety matter regarding Kyuquot Power Ltd. (KPL) (Complaint);
- B. The KPL power distribution system (KPL System) is interconnected to the British Columbia Hydro and Power Authority (BC Hydro) electric system and supplies customers, including KCFN, the Village of Hupsitas and others on the outer coast of Kyuquot Sound, with electricity;
- C. On March 15, 2020, the BCUC issued Order G-50-20, which among other things directed KPL to provide the BCUC with daily updates starting from March 16, 2020, for the following 15 days on the status of the KPL System, including its operational status, work performed, work planned for the KPL system and a KPL Systems stabilization plan which included a high-level technical assessment by the current KPL system by a qualified professional engineer;
- D. On May 15, 2020, by Order G-115-20, the BCUC established a regulatory timetable to review the safety and reliability of the KPL system;
- E. On June 21 and 24, 2020 respectively, KCFN and British Columbia Old Age Pensioners' Organization et al. (BCOAPO) submitted their requests to intervene;
- F. On July 27, 2020, KPL submitted its response to BCUC Information Request (IR) No. 1 and filed a request to keep the following information confidential:
 - i. Exhibit D-3-1, Appendix A: Application from KPL for an amended Electric Service Agreement (ESA) with BC Hydro;

- ii. Exhibit D-3-1, Appendix C: Monthly Energy Consumption for KCFN from 2006-2020;
 - iii. Exhibit D-3-1, Appendix D: 2015-2020 Monthly Energy and Peak Demand as measured by BC Hydro for the KPL System;
 - iv. Exhibit D-3-1, Appendix E: Electric Service Agreement with BC Hydro;
 - v. Exhibit D-3-1, Appendix F: Correspondence between BC Hydro and KPL with reference to the ESA dated June 2, 2006; Correspondence between BC Hydro and KPL regarding the fuse to the Point of Interconnection, between January 2019 and June 2020;
 - vi. Exhibit D-3-1, Appendix G: KPL's list of anticipated new customer loads;
 - vii. Exhibit D-3-1, Appendix H: Fuse coordination study done for KPL by Elite Engineering;
 - viii. Exhibit D-3-1, Appendix I: Technical Safety BC (TSBC) maintenance inspection report of KPL system from 2018-2020, KPL's Operating Permit dated September 4, 2019 issued by TSBC;
 - ix. Exhibit D-3-1, Appendix J: Summary of Vegetation Management completed by KPL between 2018 to 2020; and
 - x. Exhibit D-3-1, Appendix L: Correspondence between KPL and KCFN dated January 9, 2020 regarding the proposed installation of the GOLB switch.
- G. On August 28, 2020, based on KPL's request for confidentiality of the above appendices, the BCUC submitted BCUC confidential IR No. 1 to KPL. On August 28, 2020, the BCUC also submitted IR No. 2 to KPL;
- H. On September 25, 2020, KPL submitted its response to BCUC confidential IR No. 1;
- I. On September 25, 2020, KPL submitted its response to BCUC IR No. 2 and filed to keep the following information confidential:
- i. Exhibit D-5-1, Appendix 2A: TSBC Certificate of Inspection dated August 21, 2020;
 - ii. Exhibit D-5-1, Appendix 2B: Right of Way for Private Utility Distribution Line between KCFN and KPL;
 - iii. Exhibit D-5-1, Appendix 2C: Licence of occupation between the province of BC and KPL, Modification Agreement between the Province of BC and KPL;
 - iv. Exhibit D-5-1, Correspondence between KPL and TSBC relating to TSBC's oversight over the KPL system;
- J. Part IV of the BCUC's Rules of Practice and Procedure (Rules) established by Order G-1-16 and amended on December 17, 2018, by Order G-15-19, set out the rules for confidential documents filed with the BCUC; and
- K. In accordance with the Rules, the BCUC considered KPL's request for confidentiality on the documents noted above.

NOW THEREFORE the BCUC orders as follows:

1. For the reasons attached as Appendix A to this order, KPL's request to keep the following information confidential is denied:

- i. Exhibit D-3-1, Appendix A: Application from KPL for an amended Electric Service Agreement with BC Hydro;
 - ii. Exhibit D-3-1, Appendix C: Monthly Energy Consumption for KCFN from 2006-2020;
 - iii. Exhibit D-3-1, Appendix D: 2015-2020 Monthly Energy and Peak Demand as measured by BC Hydro for the KPL System;
 - iv. Exhibit D-3-1, Appendix E: Electric Service Agreement with BC Hydro;
 - v. Exhibit D-3-1, Appendix F: Correspondence between BC Hydro and KPL with reference to the ESA dated June 2, 2006; Correspondence between BC Hydro and KPL regarding the fuse to the Point of Interconnection, between January 2019 and June 2020;
 - vi. Exhibit D-3-1, Appendix G: KPL's list of anticipated new customer loads;
 - vii. Exhibit D-3-1, Appendix H: Fuse coordination study done for KPL by Elite Engineering;
 - viii. Exhibit D-3-1, Appendix I: TSBC maintenance inspection report of KPL system from 2018-2020, KPL's Operating Permit dated September 4, 2019 issued by TSBC;
 - ix. Exhibit D-3-1, Appendix J: Summary of Vegetation Management completed by KPL between 2018 to 2020
 - x. Exhibit D-3-1, Appendix L: Correspondence between KPL and KCFN dated January 9, 2020 regarding the proposed installation of the GOLB switch.
 - xi. Exhibit D-5-1, Appendix 2A: TSBC Certificate of Inspection dated August 21, 2020;
 - xii. Exhibit D-5-1, Appendix 2B: Right of Way for Private Utility Distribution Line between KCFN and KPL;
 - xiii. Exhibit D-5-1, Appendix 2C: Licence of occupation between the province of BC and KPL, Modification Agreement between the Province of BC and KPL; and
 - xiv. Exhibit D-5-1, Correspondence between KPL and TSBC relating to TSBC's oversight over the KPL system;
2. KPL is directed to resubmit the above identified exhibits in a format appropriate to be included in the public evidentiary record, within 21 days of issuance of this order. Otherwise, the original exhibits will be made available as part of the public evidentiary record.

DATED at the City of Vancouver, in the Province of British Columbia, this 3rd day of November 2020.

BY ORDER

Original signed by:

D. M. Morton
Commissioner

Attachment

Kyuquot Power Ltd.
Investigation into the Safety and Reliability of the KPL System

REASONS FOR DECISION

1.0 Background

The Kyuquot Power Ltd. (KPL) power distribution system (KPL System) is interconnected to the British Columbia Hydro and Power Authority (BC Hydro) electric system and supplies customers, including the Ka:'yu:'k't'h' / Che:k'tles7et'h' First Nations (KCFN), the Village of Hupsitas and others on the outer coast of Kyuquot Sound, with electricity.

By Order G-115-20, the British Columbia Utilities Commission (BCUC) established a regulatory timetable to review the safety and reliability of the KPL System.

On June 15, 2020, the BCUC issued Information Request (IR) No. 1 to KPL.¹ On July 27, 2020, KPL filed its responses to BCUC IR No. 1, and requested the following information be kept confidential:

1. Appendix A: Application from KPL to BC Hydro for an amended Electric Service Agreement (ESA) with BC Hydro;
2. Appendix C: Monthly Energy Consumption for KCFN from 2006-2020;
3. Appendix D: 2015-2020 Monthly Energy and Peak Demand as measured by BC Hydro for the KPL System;
4. Appendix E: ESA with BC Hydro;
5. Appendix F: Correspondence between BC Hydro and KPL with reference to the ESA dated June 2, 2006; Correspondence between BC Hydro and KPL regarding the fuse to the Point of Interconnection, between January 2019 and June 2020;
6. Appendix G: KPL's list of anticipated new customer loads;
7. Appendix H: Fuse coordination study done for KPL by Elite Engineering Ltd.;
8. Appendix I: Technical Safety BC (TSBC) maintenance inspection report of KPL System from 2018-2020, KPL's TSBC Operating Permit dated September 4, 2019 issued by TSBC;
9. Appendix J: Summary of Vegetation Management completed by KPL between 2018 to 2020; and
10. Appendix L: Correspondence between KPL and KCFN dated January 9, 2020 regarding the proposed installation of a GOLB switch.²

Based on KPL's request for confidentiality on the above noted appendices, on August 28, 2020, the BCUC issued confidential IR No. 1. On September 25, 2020, KPL submitted its response to confidential BCUC IR No. 1.

¹ Exhibit A-4

² Exhibit D-3

On August 28, 2020, the BCUC issued IR No. 2 to KPL. On September 25, 2020, KPL submitted its response to BCUC IR No. 2 and requested the following information to be kept confidential:

1. Appendix 2A: TSBC Certificate of Inspection dated August 21, 2020;
2. Appendix 2B: Right of Way for Private Utility Distribution Line between KCFN and KPL;
3. Appendix 2C: Licence of occupation between the province of BC and KPL, Modification Agreement between the Province of BC and KPL; and
4. Correspondence between KPL and TSBC relating to TSBC's oversight over the KPL system.

2.0 BCUC Rules of Practice and Procedure

Part IV of BCUC's Rules of Practice and Procedure (Rules) applies to confidential documents filed with the BCUC. The Rules provide that if a party wishes to keep information confidential the party must make a request. The BCUC may, with or without a hearing or further process, grant a request for confidentiality on any terms it considers appropriate.³

With respect to requests for confidentiality, Rule 18 of the Rules states:

- 18.01 If a party wishes to keep confidential any information in a document filed in any matter before the BCUC, in addition to the document, at the time of filing, the party must file:
- (a) a request that all or any part of the document be held in confidence which must:
 - (i) briefly describe the nature of the information in the document and the reasons for the request for confidentiality, including the specific harm that could reasonably be expected to result if the document was made publicly available; and
 - (ii) indicate whether all or only a part of the document is the subject of the request; and
 - (b) a proposed redacted version of the document that the BCUC may make publicly available, where possible.
- 18.02 The party requesting confidentiality bears the onus of establishing why the information should be treated as confidential by the BCUC.

18.03 The request for confidentiality will be a matter of public record, unless the BCUC directs otherwise.

With respect to decisions made by the BCUC regarding confidentiality, Rule 20.01 of the Rules states:

- 20.01: In determining whether the nature of the information or documents require a confidentiality direction, the BCUC will have regard to matters that it considers relevant, including:
- (a) Whether the disclosure of the information could reasonably be expected to result in:
 - i. Undue material financial loss or gain to a person;
 - ii. Significant harm or prejudice to that person's competitive or negotiating position; or
 - iii. Harm to individual or public safety or to the environment;

³ Attachment to Order G-15-19 dated December 17, 2018, Part IV, Rules 18–19.

- (b) Whether the information is personal, financial, commercial, scientific, labour relations or technical information that is confidential and consistently treated as confidential by the person;
- (c) whether the person's interest in confidentiality outweighs the public interest in the disclosure of the information or documents in the hearing;
- (d) whether the person submitting the document has any legal obligation to maintain confidentiality; and
- (e) whether it is practicable to hold the hearing in a manner that is open to the public.

3.0 KPL Request for Confidentiality

In responses to BCUC IRs, KPL requested certain information contained within the IR responses be kept confidential. Table 1 summarizes KPL's requests for confidentiality.

Table 1: Summary of KPL's Request for Confidentiality

Item	Reference	Reasons for confidentiality provided by KPL ⁴
i	Exhibit D-3-1, Appendix A: KPL's application for an amended Electric Service Agreement (ESA) with BC Hydro	Prejudice to future and past negotiations with BC Hydro
ii	Exhibit D-3-1, Appendix C: Monthly Energy Consumption for KCFN from 2006-2020	Third party commercial harm or prejudice to KCFN. KPL submits that it has no objection to the information being made available to KCFN on a declaration and undertaking basis.
iii	Exhibit D-3-1, Appendix D: 2015-2020 Monthly Energy and Peak Demand as measured by BC Hydro for the KPL System	Prejudice to future and past negotiations with BC Hydro.
iv	Exhibit D-3-1, Appendix E: Electric Service Agreement with BC Hydro	Prejudice to future and past negotiations with BC Hydro.
v	Exhibit D-3-1, Appendix F: Correspondence between BC Hydro and KPL with reference to the ESA dated June 2, 2006; Correspondence between BC Hydro and KPL regarding the fuse to the Point of Interconnection, between January 2019 and June 2020	Prejudice to future and past negotiations with BC Hydro.
vi	Exhibit D-3-1, Appendix G: KPL's list of anticipated new customer loads	Third party commercial harm or prejudice to KCFN. KPL submits that it has no objection to the information being made available to KCFN on a declaration and undertaking basis.

⁴ Exhibit D-3, pp. 2–3; Exhibit D-5, p. 2

vii	Exhibit D-3-1, Appendix H: Fuse coordination study done for KPL by Elite Engineering	Third Party commercial harm or prejudice to Elite Engineering and/or Sigma Engineering. Prejudice to future negotiations with BC Hydro.
viii	Exhibit D-3-1, Appendix I: TSBC maintenance inspection report of KPL system from 2018-2020, KPL's TSBC Operating Permit dated September 4, 2019 issued by TSBC	Private and confidential correspondence between TSBC and KPL. Commercial harm or prejudice to KPL.
ix	Exhibit D-3-1, Appendix J: Summary of Vegetation Management completed by KPL between 2018 to 2020	Third party contractors, and KPL, commercial harm or prejudice. Prejudice to future negotiations.
x	Exhibit D-3-1, Appendix L: Correspondence between KPL and KCFN dated January 9, 2020 regarding the proposed installation of the GOLB switch.	Third party commercial harm or prejudice to KCFN. KPL submits that it has no objection to the information being made available to KCFN on a declaration and undertaking basis.
xi	Exhibit D-5-1, Appendix 2A: TSBC Certificate of Inspection, dated August 21, 2020	Private and confidential correspondence between TSBC and KPL. Commercial harm or prejudice to KPL.
xii	Exhibit D-5-1, Appendix 2B: Right of Way for Private Utility Distribution Line between KCFN and KPL	Third party commercial harm or prejudice to KCFN. KPL submits that it has no objection to the information being made available to KCFN on a declaration and undertaking basis.
xiii	Exhibit D-5-1, Appendix 2C: Licence of occupation between the province of BC and KPL, Modification Agreement between the Province of BC and KPL	Prejudice to future and past negotiations with the BC Government
xiv	Exhibit D-6-1, Correspondence between KPL and TSBC relating to TSBC's oversight over the KPL system	Commercial harm or prejudice to KPL

4.0 Panel Determination

The Panel reviewed KPL's requests for confidentiality. The Panel has also considered the criteria provided in Rule 20.01 of the Rules to make its determinations.

Generally speaking, proceedings before the BCUC are open to the public. Information filed by parties in a matter before the BCUC will be placed on the evidentiary record and may be made publicly available. Further, the *Administrative Tribunals Act* requires all oral hearings before the BCUC be open to the public. Information and documents submitted as part of a hearing must be made publicly accessible unless the desirability of avoiding disclosure outweighs the principle that hearings be open to the public, it is not practicable to hold the hearing public, or the BCUC is of the opinion that the nature of the information or document requires confidentiality in order to ensure the proper administration of justice. In determining this, the BCUC may have regard to the matters identified in Rule 20 of the Rules.

Appendices A, D, E, and F

Regarding item (i) as referenced in Table 1, KPL seeks to keep its application for an amended ESA with BC Hydro confidential, on the basis that the disclosure of the information would prejudice future and past negotiations with BC Hydro. The application, prepared by Prime Engineering Ltd. on behalf of KPL, applied for an amendment to the ESA to allow for the installation of a 30T fuse as KPL's main protective device. The application also includes peak load data for the KPL system.

Regarding item (iii) as referenced in Table 1, KPL seeks to keep the monthly energy and peak demand as measured by BC Hydro for the KPL system between 2015-2020 confidential on the basis that the disclosure of the information would prejudice future and past negotiations with BC Hydro.

Regarding item (iv) as referenced in Table 1, KPL seeks to keep its ESA with BC Hydro confidential on the basis that the disclosure of the information would prejudice future and past negotiations with BC Hydro.

Regarding item (v) as referenced in Table 1, KPL seeks to have correspondence between BC Hydro and KPL with reference to the ESA and correspondence between BC Hydro and KPL regarding the fuse to the point of interconnection confidential on the basis that the disclosure of the information would prejudice future and past negotiations with BC Hydro.

The Panel finds that KPL has failed to demonstrate the need to keep these appendices confidential. The information contained in the above noted appendices are typically made public by public utilities in hearings. Further, some of the above noted appendices are already publicly available as part of the evidentiary record.⁵ The Panel finds that KPL has not demonstrated how the disclosure of these appendices would cause harm to KPL or prejudice KPL in future or past negotiations with BC Hydro. **Therefore, the Panel finds KPL's reasons for confidentiality are not compelling and KPL's request to keep the following information confidential is denied:**

- i. **Exhibit D-3-1, Appendix A: KPL's application for an amended Electric Service Agreement with BC Hydro**
- iii. **Exhibit D-3-1, Appendix D: Monthly Energy and Peak Demand as measured by BC Hydro for the KPL System**
- iv. **Exhibit D-3-1, Appendix E: Electric Service Agreement with BC Hydro**
- v. **Exhibit D-3-1, Appendix F: Correspondence between BC Hydro and KPL with reference to the ESA dated June 2, 2006 and correspondence between BC Hydro and KPL regarding the fuse to the Point of Interconnection, between January 2019 and June 2020**

Appendices C and G

Regarding item (ii) as referenced in Table 1, KPL seeks to have monthly consumption data for KCFN kept confidential on the basis that disclosure of this information would result in third party commercial harm or prejudice to KCFN. KPL notes that they are amenable to the information being made available to KCFN on a declaration and undertaking basis.

Regarding item (vi) as referenced in Table 1, KPL seeks to have KPL's list of anticipated new customer loads confidential on the basis that disclosure of this information would result in third party commercial harm or prejudice to KCFN. KPL notes that they are amenable to the information being made available to KCFN on a declaration and undertaking basis.

⁵ Exhibit A2-5; Exhibit A2-6, p. 9

Although it is normal practice to keep a single customer's consumption data confidential, the Panel notes that KCFN's consumption data is aggregated. After considering the Rules, the Panel finds that KPL has failed to demonstrate that the desirability of avoiding disclosure of the information outweighs the principle of open and transparent hearings. The Panel has also considered whether the disclosure of this information would cause significant harm or prejudice to KCFN's competitive or negotiating position and is not persuaded that it does.

Therefore, the Panel denies KPL's request to keep the following information confidential:

- ii. **Exhibit D-3-1, Appendix C: Monthly Energy Consumption data for KCFN from 2006-2020**
- vi. **Exhibit D-3-1, Appendix G: KPL's list of anticipated new customer loads**

Appendix H

Regarding item (vii) as referenced in Table 1, KPL seeks to have a 2006 fuse coordination study undertaken for KPL by Elite Engineering Ltd. kept confidential on the basis of third party commercial harm or prejudice to Elite Engineering and/or Sigma Engineering and prejudice to future negotiations with BC Hydro.

KPL has not explained how the disclosure of this information would cause third party commercial harm or prejudice Elite Engineering and/or Sigma Engineering nor has KPL presented evidence how this disclosure would prejudice future negotiations with BC Hydro. The Panel is not convinced how this Fuse Coordination study done in 2006 would cause commercial harm or prejudice to Elite Engineering or Sigma Engineering, nor is the Panel convinced how the disclosure of this information would prejudice future negotiations with BC Hydro. **Therefore, the Panel denies KPL's request to keep the following information confidential:**

- vii. **Exhibit D-3-1, Appendix H: Fuse Coordination study for KPL by Elite Engineering**

Appendices I and 2A

Regarding item (viii) as referenced in Table 1, KPL seeks to have its TSBC inspection reports from 2018-2020, and its TSBC Operating Permit, dated September 4, 2019 kept confidential citing that these records are private and confidential correspondence between TSBC and KPL and that disclosure could result in commercial harm or prejudice to KPL.

Regarding item (xi) as referenced in Table 1, KPL seeks to have TSBC's Certificate of Inspection dated August 21, 2020 and correspondence related to the Certificate of Inspection kept confidential citing that these records are private and confidential correspondence between TSBC and KPL and that disclosure could result in commercial harm or prejudice to KPL.

KPL has not explained how the disclosure of this information could result in commercial harm or prejudice to KPL. The purpose of this proceeding is to investigate the safety and reliability of the KPL system and therefore the Panel finds that it is in the public interest to include TSBC's inspection reports in the public record. The Panel is not persuaded that the disclosure of these inspection reports would result in commercial harm or prejudice to KPL. Furthermore, the Panel is not convinced that KPL's interest in the confidentiality of these documents outweighs the public interest in the disclosure of this information in this hearing on safety and reliability.

Accordingly, the Panel denies KPL's request to keep the following information confidential:

- viii. **Exhibit D-3-1, Appendix I: TSBC maintenance inspection report of KPL system from 2018-2020, KPL's Operating Permit dated September 4, 2019**
- xi. **Exhibit D-5-1, Appendix 2A: TSBC Certificate of Inspection, dated August 21, 2020**

Appendix J

Regarding item (ix) as referenced in Table 1, KPL seeks to have the summary of Vegetation Management completed by KPL between 2018 and 2020 kept confidential on the basis of commercial harm or prejudice to third party contractors and KPL. KPL also cites prejudice to future negotiations.

KPL have not explained how the disclosure of these documents would cause commercial harm or prejudice third party contractors or prejudice future negotiations. As previously discussed, the purpose of this proceeding is to investigate the safety and reliability of KPL's system. Vegetation management is a critical activity a utility ought to undertake to maintain reliability and safety. The Panel also notes that on October 19, 2020, the BCUC issued Order G-261-20. This order noted the lack of critical vegetation management undertaken by KPL and directed KPL to undertake urgent maintenance and vegetation management work. The Panel is therefore not persuaded that the disclosure of these documents would cause commercial harm or prejudice third party contractors. The Panel is also not persuaded that the disclosure of these documents would prejudice KPL's future negotiations. **Accordingly, the Panel denies KPL's request to keep the following information confidential:**

- ix. **Exhibit D-3-1, Appendix J: Summary of Vegetation Management completed by KPL**

Appendix L

Regarding item (x) as referenced in Table 1, KPL seeks to have correspondence between KPL and KCFN regarding the proposed installation of the GOLB switch kept confidential on the basis of third party commercial harm or prejudice to KCFN. KPL notes that they are amenable to the information being made available to KCFN on a declaration and undertaking basis.

KPL have not explained how the disclosure of this information would cause third party commercial harm or prejudice to KCFN. The Panel notes that some of the information included in Appendix L is already publicly available.⁶

The Panel finds that KPL has failed to demonstrate that the desirability of avoiding disclosure of the information outweighs the principle of open and transparent hearings. The Panel has also considered whether the disclosure of this information would cause significant harm or prejudice to KCFN's competitive or negotiating position and is not persuaded that it does.

Therefore, the Panel denies KPL's request to keep the following information confidential:

- x. **Exhibit D-3-1, Appendix L: Correspondence between KPL and KCFN regarding the proposed installation of the GOLB switch**

Appendix 2B

Regarding items (xii) as referenced in Table 1, KPL seeks to have the Right of Way for a Private Utility Distribution Line between KCFN and KPL confidential on the basis of third party commercial harm or prejudice to KCFN. KPL notes that they are amenable to the information being made available to KCFN on a declaration and undertaking basis.

⁶ Exhibit A2-11

The Panel notes that much of this information was already made publicly available by KCFN in their responses to BCUC IR No. 1.⁷ Given much of this information is already part of the public record, the Panel is not persuaded that the disclosure of this information would cause third party commercial harm or prejudice KCFN. **Accordingly, the Panel denies KPL's request to keep the following information confidential:**

- xii. **Exhibit D-5-1, Appendix 2B: Right of Way for Private Distribution Line between KCFN and KPL**

Appendix 2C

Regarding item (xiii) as referenced in Table 1, KPL seeks to have the Licence of Occupation between the Province of BC and KPL, and the modification agreement between the Province of BC and KPL confidential on the basis of prejudice to future or past negotiations with the BC Government.

KPL has not explained how the Licence of Occupation or the modification agreement may prejudice future or past negotiations with the BC Government. The Panel notes that Licences of Occupation are public documents and third parties can obtain these documents through a search in the Land Titles Office or through a Freedom of Information Request. The Panel is therefore not persuaded by KPL's submission that the disclosure of this information would prejudice future or past negotiations with the BC Government. **Accordingly, the Panel denies KPL's request to keep the following information confidential:**

- xiii. **Exhibit D-5, Appendix 2C: Licence of Occupation between the province of BC and KPL, Modification Agreement between the Province of BC and KPL**

TSBC Correspondence

Regarding items (xiv) as referenced in Table 1, KPL seeks to have the August 6, 2020 and September 2, 2020 correspondence between TSBC and KPL regarding TSBC's oversight over the KPL System confidential on the basis that its disclosure could result in commercial harm or prejudice to KPL.

KPL has not explained how disclosure of this information could result in commercial harm or prejudice other than making this assertion. The Panel notes that TSBC, in the interest of openness and transparency had copied KCFN in its response to KPL regarding their oversight of the KPL system. The Panel is therefore not compelled by KPL's submission that the disclosure of this information would cause commercial harm or prejudice to KPL. **Therefore, the Panel denies KPL's request to keep the following information confidential:**

- xiv. **Exhibit D-5: Correspondence between TSBC and KPL regarding TSBC's oversight over the KPL system**

Based on the above findings, and pursuant to the Rules, the Panel directs KPL to resubmit the above identified exhibits in a format appropriate to be included in the public evidentiary record, within 21 days of issuance of this order. Otherwise, the original exhibits will be made available as part of the public evidentiary record.

⁷ Exhibit C2-3, pp. 14–37