



ORDER NUMBER
G-65-21

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, Panel Chair
C. Brewer, Commissioner
T. A. Loski, Commissioner

on March 8, 2021

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, among 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. In the Complaint, the KCFN representative stated concerns regarding the reliability, service and maintenance of the KPL System;
- D. By Orders G-115-20, dated May 15, 2020, the BCUC established a regulatory timetable to review the safety and reliability of the KPL System, which was subsequently amended by Orders G-182-20 and G-221-20, dated July 9, 2020 and August 21, 2020, respectively. The regulatory timetables consisted of public notification, intervenor registration, two rounds of BCUC Information Requests (IR) to KPL, one round of BCUC IRs to KCFN, two rounds of Intervenor IRs to KPL, letters of comment, KPL responses to IRs and further process to be determined;
- E. KCFN and British Columbia Old Age Pensioners' Organization et al. (BCOAPO) registered as intervenors in the proceeding;
- F. On October 19, 2020, the BCUC issued Order G-261-20 directing KPL, among other things, to provide a vegetation management plan identifying urgent vegetation work on the KPL system (Vegetation Plan) and a maintenance plan identifying all outstanding maintenance work on the KPL System (Maintenance Plan) within 21 days of issuance of the order. Order G-261-20 also included dates by which priority items identified in the Vegetation Plan and Maintenance plan were to be complete;

- G. On November 13, 2020, KPL filed a letter with the BCUC requesting an extension to complete the compliance directives (Compliance Directives) identified in Order G-261-20 (Extension Request). On November 20, 2020, by Order G-296-20, the BCUC sought submissions from registered interveners on KPL's Extension Request and, on November 25, 2020, KCFN submitted a letter expressing concerns with KPL's Extension Request. On November 27, 2020, KPL submitted a reply submission;
- H. On December 2, 2020, by Order G-309-20, the BCUC granted the Extension Request and, on December 9, 2020 and December 29, 2020, KPL submitted compliance filings to the BCUC which described the vegetation and maintenance work completed pursuant to Order G-309-20 (Compliance Filings). The Compliance Filings stated, among other things, that as of December 29, 2020, KPL had completed all but one priority 1 item as described in their Maintenance Plan;
- I. On January 27, 2021, by Order G-29-21, the BCUC established a further regulatory timetable directing KPL to complete the remaining priority 1 item and directing KPL to submit a completion report, approved by a professional engineer, demonstrating completion of all priority 1 items. The regulatory timetable also sought submissions from registered interveners on the completed and planned compliance activities as filed by KPL;
- J. On February 3, 2021, KPL filed a letter with the BCUC requesting an extension to the regulatory timetable established by Order G-29-21. On February 5, 2021, by Order G-39-21, the BCUC denied KPL's February 3, 2021 extension request and amended the regulatory timetable to include the date by which KPL was to submit the report demonstration completion of all priority 1 items;
- K. On February 8, 2021, KCFN filed a submission with the BCUC stating that they have concerns with Directive 2 of Order G-29-21, which directed KPL to complete the remaining priority 1 item as described by KPL's Maintenance Plan. KCFN identified that the remaining priority 1 item is to add locks to gang-operated load break switch S3 (GOLB S3) restricting access to KPL personnel only. KCFN stated that GOLB S3 is installed on a KCFN owned structure and connected to KCFN owned conductors and that locks restricting access to KPL personnel only should not be applied. KCFN recommended creating the joint operating order and that once signed by both parties, personnel from both KPL and KCFN could be issued keys to GOLB S3;
- L. On February 12, 2021, KPL filed a reply to KCFN's submission, which stated, among other things, that if GOLB S3 is opened, KPL cannot supply its downstream customers. KPL further stated that operation of GOLB S3 should be limited to joint operation between KPL and KCFN by way of a two-key interlock device requiring both keys to operate. KPL stated its support for development of a joint operating order;
- M. On February 16, 2021, KCFN filed a submission with the BCUC, which, among other things, reiterated that a joint operating order should be drafted with respect to GOLB S3; however, stated that a two key system for GOLB S3, as proposed by KPL, will not be acceptable to KCFN;
- N. On February 22, 2021, KPL filed a submission with the BCUC, which stated, among other things, that KPL is being denied access to the lock mechanism on GOLB S3 by KCFN. KPL stated that it objects to an arrangement that will allow KCFN to operate the KPL System without the attendance of a KPL representative;
- O. In response to BCUC IR 2 to KPL, KPL provided a Right of Way Agreement between KCFN and KPL dated April 1, 2011 in attachment 2B (ROW Agreement). KCFN provided a copy of the same ROW Agreement in response to BCUC IR 1 to KCFN. Section 11 of the ROW Agreement provides for dispute resolution, including the option for either party, by written notice, to request that the dispute be referred to mediation;
- P. The Panel has reviewed the submissions and finds a dispute has arisen out of or in connection with the ROW Agreement; and
- Q. The Panel finds that until the dispute is resolved both parties will require a key to GOLB S3.

NOW THEREFORE pursuant to sections 23, 25 and 38 of the *Utilities Commission Act*, the BCUC orders as follows:

1. KPL is directed, as soon as reasonably possible, but no later than March 12, 2021, to request the dispute regarding the locking arrangement and terms of a joint operating order governing GOLB S3 be referred to mediation, pursuant to Section 11 of the ROW Agreement.
2. KPL is directed to provide the BCUC with an update on the mediation either as soon as reasonably possible upon resolution or no later than April 12, 2021.
3. Until the dispute is resolved, the BCUC requests KCFN, as soon as reasonably possible, but no later than March 12, 2021, to provide KPL a copy of the key for GOLB S3.
4. Until the dispute is resolved, KCFN and KPL are to notify each other prior to any operation of GOLB S3, although permission of the other party is not required.

DATED at the City of Vancouver, in the Province of British Columbia, this 8th day of March 2021.

BY ORDER

Original signed by:

D. M. Morton
Commissioner