



ORDER NUMBER
G-382-21

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. M. Brewer, Commissioner
T. A. Loski, Commissioner

on December 17, 2021

ORDER

WHEREAS:

- A. On May 15, 2020, by Order G-115-20, the British Columbia Utilities Commission (BCUC) established a hearing to review the safety and reliability of the Kyuquot Power Ltd. (KPL) system, following a complaint by a representative of the Ka:'yu:'k't'h' / Che:k'tles7et'h' First Nations (KCFN);
- 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 Houpsitas and others, on the outer coast of Kyuquot Sound, with electricity;
- C. By Orders G-115-20, G-182-20, G-221-20, G-296-20, G-29-21, and G-39-21, the BCUC established, amended, and furthered a regulatory timetable to review the safety and reliability of the KPL System;
- D. On October 19, 2020, by Order G-261-20, the BCUC directed KPL 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). On January 27, 2021, by Order G-29-21, the BCUC directed KPL to file quarterly progress reports outlining the status of completion of the remaining items identified in the Vegetation and Maintenance Plans (Quarterly Report);
- E. In January 2020, KCFN installed a gang-operated load break Switch S3 (GOLB S3) on a KCFN-owned structure to respond to safety concerns;
- F. On March 1, 2021, KPL submitted its Final Argument; on March 8, 2021, KCFN submitted its Final Argument and on March 15, 2021, KPL submitted its Reply Argument;
- G. On March 8, 2021, the BCUC issued Order G-65-21, which, among other things, directed KPL, 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 for GOLB S3, be referred to mediation, pursuant to Section 11 of the Right of Way Agreement;

- H. On March 12, 2021, KCFN submitted an application with the BCUC for reconsideration and variance of Directives 3 and 4 of Order G-65-21 (Reconsideration Application);
- I. On March 17, 2021, by Order G-79-21, the BCUC established a regulatory timetable seeking submissions from parties on the Reconsideration Application;
- J. After reviewing the submissions, the BCUC established an Oral Hearing on April 21, 2021 to receive further submissions from both parties;
- K. Crown Corridor is defined in Chapter 7 of the Maa-nulth First Nations Final Agreement and after considering the evidence and submissions made at the Oral Hearing, and because the GOLB S3 is on land that is within the Crown Corridor, the BCUC, on April 28, 2021, issued Order G-126-21, which rescinded Order G-65-21;
- L. At the Oral Hearing, KPL submitted that in the case of an emergency such as a short circuit, the fuses within the KPL system or the KCFN system would operate to de-energize the downstream line and that neither KPL nor KCFN would require emergency access to the GOLB S3;
- M. On April 28, 2021, by Order G-129-21, the BCUC established a regulatory timetable seeking submissions from parties on the need for access to GOLB S3, submissions on whether, with respect to the portion of the line on the Crown Corridor, KCFN meets the definition of a public utility and submissions on the applicability of section 27 of the *Utilities Commission Act* (UCA) on shared KCFN infrastructure;
- N. On May 28, 2021, pursuant to Order G-129-21, KCFN filed its submissions and stated that KCFN does not meet the definition of a public utility. KCFN further submitted that even if it did meet the definition of public utility under the UCA, the BCUC should recommend an exemption for KCFN from all portions of the UCA. On May 28, 2021, KPL filed its submissions pursuant to Order G-129-21;
- O. On June 2, 2021, KCFN submitted correspondence to KPL addressing a number of safety, reliability and legal matters, including concerns that KPL is transmitting power across KCFN's infrastructure on the Crown Corridor without appropriate legal agreements and KCFN's concerns over the safety of KPL's "fly-over" line through Houpsitas;
- P. On July 9, 2021, by Order G-212-21, the BCUC established a further regulatory timetable seeking submissions from parties on whether the BCUC has jurisdiction on treaty land, with respect to the fly-over line through Houpsitas on shared KCFN/KPL poles and KPL-owned poles and submissions on who is currently responsible for the maintenance of the fly-over line through Houpsitas on shared KCFN/KPL poles and KPL-owned poles. Order G-212-21 also directed KPL to follow Section 24 of its Electric Tariff with respect to providing notice to Customers when suspending service for repairs or improvements on the KPL system;
- Q. Section 88(3) of the UCA states: "the commission, may, on conditions it considers advisable, with the advance approval of the minister responsible for the administration of the *Hydro and Power Authority Act*, exempt a person, equipment or facilities from the application of all or any of the provisions of this Act or may limit or vary the application of this Act";
- R. On December 10, 2021, by Order G-368-21, the BCUC determined that KCFN is a public utility as defined in section 1(1) of the UCA and directed KCFN and KPL to negotiate an agreement concerning the joint use of the facilities within the Crown Corridor within three months of issuance of the order. Order G-368-21 also

established a further regulatory timetable seeking Panel Information Request No. 1 from KPL and submissions from KCFN and KPL on reasons why an exemption granted to KCFN from each of the specific sections of the UCA is warranted;

- S. On December 14, 2021, KPL filed a letter with the BCUC requesting an extension to respond to the Panel Information Request No. 1 (Extension Request). In the Extension Request, KPL states that they will need to undertake a detailed review of files in storage before being able to respond to the Panel Information Requests; and
- T. The BCUC has considered KPL's Extension Request and determines that an amendment to the regulatory timetable is warranted.

NOW THEREFORE the BCUC orders the regulatory timetable established by Order G-368-21 is amended as set out in Appendix A to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 17th day of December 2021.

BY ORDER

Original signed by:

D. M. Morton
Commissioner

Attachment

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

REGULATORY TIMETABLE

Action	Date (2022)
KCFN submissions as to why exemption from part 3 and section 71 of the UCA is warranted, including specified sections	Friday, January 14
KPL response on reasons why KCFN exemption from part 3 and section 71 of the UCA is warranted, including specified sections	Monday, January 17
KCFN reply response (if required)	Friday, January 21
KPL reply to Panel Information Request No. 1	Monday, January 31
Further process	To be determined