



ORDER NUMBER
G-123-23

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

and

Lake Okanagan Resort
Apparent Contravention of the *Utilities Commission Act*

BEFORE:
T. A. Loski, Commissioner

on June 1, 2023

ORDER

WHEREAS:

- A. By Order G-96-23 dated April 27, 2023, the British Columbia Utilities Commission (BCUC) established a public hearing process for the review of Lake Okanagan Resort's (LOR) apparent contravention of sections 42 and 43 of the *Utilities Commission Act* (UCA) and its non-compliance with the notice directives in Order G-71-23;
- B. By Order G-333-19 dated December 18, 2019, the BCUC determined that LOR was a public utility as defined in section 1 of the UCA and is therefore subject to regulation by the BCUC under the UCA;
- C. On December 7, 2022, LOR filed with BCUC its Electrical Distribution Assessment Report (LOR Assessment Report) prepared by Falcon Engineering;
- D. By Order G-41-23 dated March 1, 2023, the BCUC established a public hearing process and a regulatory timetable for the review of the LOR Assessment Report (Hearing). In the order, the BCUC directed LOR to, among other directives, provide notice of the Hearing to its customers, provide confirmation of compliance with notice requirements, and provide proof of notice to the BCUC;
- E. On March 29, 2023, LOR filed a request to extend the regulatory timetable, citing that due to a clerical error it did not realize there was a deadline for notice requirements and that LOR had not provided notice as required;
- F. By Order G-71-23, dated March 31, 2023, the BCUC granted LOR's request and amended the regulatory timetable for the Hearing. In the order, the BCUC directed LOR, among other directives, to provide notice of the Hearing to its customers by April 6, 2023, and to provide confirmation of compliance with notice requirements and proof of notice to the BCUC by April 11, 2023;
- G. The BCUC did not receive confirmation of compliance with notice requirements or proof of notice from LOR by the established deadlines as set out in regulatory timetable in Order G-71-23;

- H. On May 9, 2023, LOR submitted comments on its apparent contravention of the UCA and non-compliance with Order G-71-23;
- I. On May 9, 2023, President of KAS 322 Strata submitted a letter of comment regarding the notice it received from LOR about the Hearing; and
- J. The BCUC has reviewed the evidence in this proceeding and considers the following determination to be warranted.

NOW THEREFORE pursuant to section 109.1(1) of the UCA, and for the reasons accompanying this order, the BCUC determines that LOR has contravened sections 42 and 43 of the UCA.

DATED at the City of Vancouver, in the Province of British Columbia, this 1st day of June 2023.

BY ORDER

Original signed by:

T. A. Loski,
Commissioner

Lake Okanagan Resort
Apparent Contravention of the *Utilities Commission Act*

REASONS FOR DECISION

1. INTRODUCTION

On March 1, 2023, the British Columbia Utilities Commission (BCUC) established a public hearing for the review of Lake Okanagan Resort's (LOR) electrical distribution assessment report. LOR was directed to, among other things, provide notice of the proceeding to its customers and to provide confirmation of its compliance with the notice requirements and proof of notice to the BCUC by March 9, 2023, and March 30, 2023, respectively.

On March 29, 2023, LOR filed a request to extend the notice deadlines. In its extension request, LOR stated that due to a clerical error it had not realized there was a deadline for notice and that it had not provided notice as required.¹

By Order G-71-23, dated March 31, 2023, the BCUC granted LOR's extension request and amended the regulatory timetable for the proceeding. In the order, the BCUC directed LOR to provide notice by April 6, 2023, and to provide confirmation of compliance with notice requirements and proof of notice to the BCUC by April 11, 2023.

On April 27, 2023, the BCUC established a public hearing process for the review of LOR's apparent contravention of sections 42 and 43 of the *Utilities Commission Act* (UCA) and its non-compliance with the notice directives in Order G-71-23, having not received confirmation of compliance with the notice requirements or proof of notice from LOR by the amended deadlines. LOR was directed to provide comments on the apparent contravention of the UCA and non-compliance with Order G-71-23 by May 11, 2023.

2. LEGISLATIVE AUTHORITY

Section 42 of the UCA provides that:

A public utility must obey the lawful orders of the commission made under this Act for its business or service, and must do all things necessary to secure observance of those orders by its officers, agents and employees.

Section 43 of the UCA provides, in part, that:

- 1) A public utility must, for the purposes of this Act,
 - a. answer specifically all questions of the commission, and
 - b. provide to the commission
 - i. the information the commission requires, ...

¹ Exhibit B-1, p. 1

Section 109.1(1) of the UCA provides that:

After giving a person an opportunity to be heard, the commission, for the purposes of section 109.2, may find that the person has contravened a provision of

- a. this Act or the regulations, or
- b. an order, standard or rule of the commission or a reliability standard adopted by the commission.

3. APPARENT CONTRAVENTION

LOR Submission

On May 9, 2023, LOR made a submission on its apparent contravention of the UCA. In its submission, LOR acknowledges that it missed deadlines that were established by the BCUC. LOR states that some BCUC emails were missed as they went to defunct LOR email accounts that were owned by previous employees, and notes that an individual has been retained to ensure LOR meets its obligations to its customers and as a public utility.² LOR states that it sent “the notice late rather than waiting for an updated timetable again in an effort to just ensure the original notice was sent and an updated timetable would follow.”³

Letter of Comment

On May 9, 2023, President of KAS 322 Strata, a LOR customer, submitted a letter of comment expressing concerns regarding the notice it received from LOR regarding the electrical distribution assessment proceeding. President of KAS 322 Strata submits that LOR failed to comply with the timetable established by the BCUC and that LOR’s “flagrant disregard for the prescribed guidelines outlined by BCUC raises serious concerns regarding LOR’s commitment to transparency and fair participation in the regulatory process.” Further, President of KAS 322 Strata submits that when LOR did provide notice of the proceeding to its customers, it did so on April 27, 2023, which was the deadline for letters of comment in the proceeding and that “in an attempt to appear compliant with the timetable, LOR dated their notice as April 6th, 2023”.

Panel Determination

In Order G-71-23, the BCUC directed LOR to provide notice of the electrical distribution assessment report proceeding to its customers by April 6, 2023, and to confirm its compliance with the notice requirements and to provide proof of notice to the BCUC by April 11, 2023. In its submission, LOR acknowledges that it failed to meet the notice requirements and deadlines established in this order.

Having reviewed the evidence in this proceeding, the Panel finds that LOR has contravened sections 42 and 43 of the UCA by failing to comply with the notice requirements and deadlines set out in Order G-71-23.

The Panel notes that public utilities, pursuant to Sections 42 and 43 of the UCA, must obey the lawful orders of the BCUC made under the UCA, must provide the information the BCUC requires, and must do all things necessary to secure observance of BCUC orders by its officers, agents and employees. As a public utility LOR must meet its regulatory obligations, which includes complying with the UCA and adhering to all rules and standards set by the BCUC.

² Exhibit B-1, p. 1

³ Exhibit B-1, p.