



**ORDER NUMBER
G-371-21**

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

and

Ka:'yu:'k't'h' / Che:k'tles7et'h' First Nations
Application for Reconsideration of Order G-213-21
In the matter of Kyuquot Power Ltd. Revenue Requirements Application

BEFORE:

A. K. Fung, QC, Panel Chair
C. M. Brewer, Commissioner
A. Pape-Salmon, Commissioner

on December 14, 2021

ORDER

WHEREAS:

- A. In a letter dated September 24, 2021, a KPL customer, Ka:'yu:'k't'h' / Che:k'tles7et'h' First Nations (KCFN), filed an application with the British Columbia Utilities Commission (BCUC), requesting a reconsideration of Order G-213-21 and its accompanying Decision, respecting Kyuquot Power Ltd.'s revenue requirements application (Reconsideration Application);
- B. On November 30, 2020, Kyuquot Power Ltd. (KPL) filed an application with the BCUC for approval of amendments to its revenue requirements along with certain rate matters (Application);
- C. On January 5, 2021, by Order G-2-21, the BCUC commenced review of the Application and directed KPL to provide notice of the Application to all customers directly, either electronically or by mail, by Friday, January 29, 2021;
- D. On March 25, 2021, KCFN filed a letter of comment in the Application proceeding;
- E. On July 12, 2021, by Order G-213-21, the BCUC approved amongst other items, an increase to KPL's Energy Charges;
- F. In the Reconsideration Application, KCFN states that during the Application, the BCUC allowed imprudently incurred compliance costs to be included in KPL's revenue requirement, and thus failed to set reasonable rates; and
- G. The BCUC has reviewed the Reconsideration Application and finds that on its face a summary dismissal is warranted.

NOW THEREFORE pursuant to section 99 of the *Utilities Commission Act*, the BCUC Rules of Practice and Procedure, and for the reasons attached as Appendix A to this order, the BCUC summarily dismisses the Reconsideration Application.

DATED at the City of Vancouver, in the Province of British Columbia, this 14th day of December 2021.

BY ORDER

Original signed by:

A. K. Fung, QC
Commissioner

Attachment

Executive summary

Ka:'yu:'k't'h' / Che:k'tles7et'h' First Nations (KCFN) applies for a reconsideration of the BCUC's Order G-213-21, respecting Kyuquot Power Ltd.'s (KPL) revenue requirements application (RRA), and its accompanying Decision (Reconsideration Application). KCFN submits that there is otherwise just cause for reconsideration of the RRA Decision in that the BCUC, in its RRA Decision, allowed imprudently incurred compliance costs to be included in KPL's revenue requirement, and thus failed to set reasonable rates. In the RRA Decision, the BCUC found that there was no regulatory justification for exclusion of the compliance costs which KPL was directed to undertake in the parallel and ongoing Investigation into the Safety and Reliability of the KPL System (Safety and Reliability) proceeding pertaining to the KPL line. This Panel agrees with that finding.

The BCUC Rules of Practice and Procedure permit the summary dismissal of an application for reconsideration in which the applicant has failed to establish reasonable grounds for reconsideration. Having reviewed KCFN's submissions and the record from the RRA proceeding, the Panel finds that KCFN has not established otherwise just cause that would support reconsideration of the RRA Decision, and therefore summarily dismisses KCFN's Reconsideration Application pursuant to Rule 28.01. However, the Panel encourages KCFN to participate in KPL's future RRA proceedings following the conclusion of the ongoing Safety and Reliability proceeding. The findings to be made in the Safety and Reliability proceeding may assist KCFN to determine whether there is a basis to request a prudency review of the compliance costs in KPL's future RRA proceedings, or to pursue alternative avenues of relief against KPL and others.

Ka:'yu:'k't'h' / Che:k'tles7et'h' First Nations
Application for Reconsideration of Order G-213-21
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REASONS FOR DECISION

1. Introduction

Ka:'yu:'k't'h' / Che:k'tles7et'h' First Nations (KCFN), a Kyuquot Power Ltd. (KPL) customer, seeks a reconsideration of the BCUC's Order G-213-21 and its accompanying Decision (Reconsideration Application).

Background

On November 30, 2020, KPL filed an application with the British Columbia Utilities Commission (BCUC) for approval of amendments to its revenue requirements (RRA) and certain rate matters (Application). The public hearing process to review the Application included a direction to KPL to provide notice of both the Application and BCUC Order G-2-21 to all its customers, BCUC information requests, letters of comment and KPL's final argument. As part of the hearing, KPL confirmed that it complied with the BCUC order to provide notice to all its customers, including KCFN.¹

By Order G-213-21 and its accompanying Decision (RRA Decision), the BCUC approved, among other things, an increase to KPL's Basic and Energy Charges.

2. Applicable Law and BCUC Rules of Practice and Procedure Governing Reconsideration Applications

The framework that guides the process to determine whether to reconsider a BCUC decision includes both the *Utilities Commission Act* (UCA) and the BCUC Rules of Practice and Procedure (Rules).²

Section 99 of the UCA provides "the commission, on application or on its own motion, may reconsider a decision, an order, a rule or a regulation of the commission and may confirm, vary or rescind the decision, order, rule or regulation."

Rule 26.04 of the Rules provides, in part, that an application for reconsideration must be filed in accordance with the Rules.

Rule 26.05 of the Rules provides that an application for reconsideration must contain a concise statement of the grounds for reconsideration and include one or more of the following grounds:

- a. the BCUC has made an error of fact, law, or jurisdiction which has a material bearing on the decision;

¹ Kyuquot Power Ltd. Revenue Requirements Application Proceeding, Exhibit B-2.

² BCUC Rules of Practice and Procedure, Order G-15-19 dated January 22, 2019, Appendix A.

- b. facts material to the decision that existed prior to the issuance of the decision were not placed in evidence in the original proceeding and could not have been discovered by reasonable diligence at the time of the original proceeding;
- c. new fact(s) have arisen since the issuance of the decision which have material bearing on the decision;
- d. a change in circumstances material to the decision has occurred since the issuance of the decision; or
- e. where there is otherwise just cause.³

Rule 28.01 of the Rules provides that “Upon the filing of an application for reconsideration of a decision, the BCUC may, without further process, summarily dismiss the application, in whole or in part, on the basis that it fails to establish, on its face, any reasonable grounds for reconsideration of the decision.”⁴

3. Grounds for Reconsideration

KCFN has only alleged one basis for reconsideration, namely, Rule 26.05 (e) which states “where there is otherwise just cause.” Specifically, KCFN states that the BCUC allowed for recovery of imprudent costs in approving rates in the Application, and further submits that the applied for rate increase should have been considered within the context of their safety and reliability complaint.

Pursuant to Rules 26.05 and 28.01, the Panel must determine whether KCFN has established on the face of its Reconsideration Application any reasonable grounds for reconsideration of the RRA Decision such that summary dismissal is unwarranted.

The Panel addresses each of KCFN’s concerns raised in the Reconsideration Application in the subsections below.

3.1. Safety and Reliability Proceeding

KCFN submitted a complaint to the BCUC on February 13, 2020 which led to the BCUC launching an investigation into the safety and reliability of the KPL system (Safety and Reliability proceeding) on May 15, 2020. KCFN is actively participating in the ongoing Safety and Reliability proceeding. KCFN submits that over the course of the Safety and Reliability proceeding, the BCUC has identified various deficiencies and ordered KPL to address infrastructure and maintenance compliance issues.⁵

KCFN states in its letter of comment filed on March 25, 2021 (Letter of Comment) in the proceeding giving rise to the RRA Decision, that it would be unfair to include costs associated with addressing code compliance issues that have existed since construction (Compliance Costs) in KPL’s revenue requirement for recovery from ratepayers. KCFN states that the report from Primary Engineering Ltd. submitted in the Safety and Reliability

³ Ibid., pp. 15–16.

⁴ Ibid., p. 16.

⁵ Exhibit B-1, para. 13.

proceeding finds 17 spans with ‘potential low ground clearance.’ KCFN argues that the costs incurred to remedy these deficiencies can be inferred to have been imprudent.⁶

KCFN submits that in the context of the Safety and Reliability proceeding, to allow KPL to pass the Compliance Costs on to its ratepayers may lead to an unjust result.⁷ KCFN submits that these Compliance Costs are not merely a matter of deferred routine maintenance, but incorrectly constructed assets, which create ongoing life-safety and reliability concerns.⁸

In its Reconsideration Application, KCFN submits that it is unclear from the RRA Decision whether the BCUC considered the context of the ongoing Safety and Reliability proceeding when setting KPL’s rates.⁹ KCFN submits that the BCUC did not explicitly state in the RRA Decision why it was appropriate to include the Compliance Costs from the Safety and Reliability proceeding in KPL’s rates.¹⁰

In the RRA Decision, the BCUC notes that the KPL Safety and Reliability proceeding is ongoing, and the review of the vegetation management and maintenance plans is not within scope of the RRA proceeding except for the associated costs proposed to be captured in the Long Term Maintenance (LTM) Asset regulatory account.¹¹

In the RRA Decision, the BCUC referred to KCFN’s concerns raised in the Letter of Comment¹² and acknowledged KCFN’s concerns as part of the determinations.¹³ In response to KCFN’s Letter of Comment, KPL argued that the evidence supports that the costs resulting from actions undertaken in compliance with BCUC orders do not arise from concerns with original construction.¹⁴

Panel Discussion

The Panel notes that KCFN received notice of KPL’s Application, was provided access to the materials filed in that Application and submitted a Letter of Comment which pointed to the connection between the Application and the Safety and Reliability proceeding which is ongoing.

However, the Panel finds that the ongoing Safety and Reliability proceeding is distinct and has a separate evidentiary record from KPL’s Application, which gave rise to the RRA Decision as well as this Reconsideration Application. The BCUC has not made any determinations in the Safety and Reliability proceeding that would assist in this Reconsideration Application pertaining to the RRA Decision. In the absence of such determinations, there is no evidence before this Panel on which we could reasonably conclude that the Compliance Costs are a result of improper installation and nothing that would support a conclusion that the Compliance Costs were not reasonable and necessary or imprudent, and therefore ought not to be recoverable in KPL’s rates.

The Panel finds KCFN’s submissions that the BCUC did not explicitly state in the RRA Decision why it was appropriate to include the Compliance Costs from the Safety and Reliability proceeding in KPL’s rates to be

⁶ Exhibit B-1, para. 14–16.

⁷ Ibid, para. 36.

⁸ Ibid, para. 20.

⁹ Ibid, para. 11.

¹⁰ Ibid, para. 17.

¹¹ Decision and Order G-213-21, p. 3.

¹² Ibid, pp. 9–10.

¹³ Ibid, p. 13.

¹⁴ Ibid, p. 10.

without merit. In the RRA Decision, the BCUC specifically referred to the costs arising from the Safety and Reliability proceeding in the following terms:¹⁵

On May 15, 2020, the BCUC established a hearing for the KPL Safety and Reliability Investigation. As part of this hearing, the BCUC ordered, among other things, that KPL provide the BCUC with a vegetation management plan...and a maintenance plan ... The KPL Safety and Reliability Investigation is currently ongoing in a separate BCUC proceeding and the review of these plans is not within the scope for this current proceeding except for the associated costs proposed to be captured in the LTM Asset account. [Emphasis added]

In reviewing the appropriateness of those costs as part of the RRA Decision, the BCUC noted that KPL's proposal was to establish a rate base LTM Asset regulatory account to capture costs related to the BCUC-directed powerline maintenance and vegetation management plans.¹⁶ The BCUC went on to acknowledge "the KCFN's concerns regarding KPL's proposal to include in Revenue Requirement the management, engineering, and construction costs related [sic] addressing recommendations arising from the BCUC directed powerline maintenance and vegetation management plans."¹⁷ However, the BCUC found that "there is no regulatory justification for the KCFN's request to exclude all management, engineering, and construction costs associated with KPL addressing issues on its powerline that have existed since construction from costs used for determining rate increases."¹⁸ The BCUC provided the following rationale for its finding:¹⁹

Given the legislative and regulatory framework set out in Section 1 of this Decision, if the Panel sets rates that are insufficient to yield a fair and reasonable compensation for the service provided by the KPL, such rates would be unjust and unreasonable. Just and reasonable rates must enable a utility the opportunity to recover its cost of service consisting of reasonable and necessary costs that are prudently incurred, a return of its investment in capital through recovery of depreciation expense, and a return on its investment through a charge for deemed interest and an allowed rate of return on invested capital.

In short, it would be unjust and unreasonable for KPL's rates to exclude the anticipated Compliance Costs associated with the Safety and Reliability proceeding.

3.2. Imprudently Incurred Costs

KCFN states that in its Letter of Comment in the RRA proceeding it requested that KPL's Compliance Costs be excluded from the calculation of KPL's revenue requirement to be recovered from ratepayers.²⁰

In the Reconsideration Application, KCFN clarifies that it asked the BCUC to exclude the Compliance Costs from the revenue requirement that were not prudently incurred.²¹ KCFN states that the RRA Decision creates a precedent that public utilities can imprudently manage their assets and ignore life-safety issues and recover any

¹⁵ Ibid, p. 3.

¹⁶ Ibid, p. 9.

¹⁷ Ibid, p. 13.

¹⁸ Ibid, p. 13.

¹⁹ Ibid.

²⁰ Exhibit B-1, para. 3.

²¹ Exhibit B-1, para. 4.

related costs through rates.²² KCFN's position is that not all of the Compliance Costs were prudently incurred and that the ratepayer should not have to bear the financial costs of imprudent management.²³

KCFN submits that a reconsideration of the Compliance Costs includes consideration of KCFN's contribution in aid of construction (CIAC), and that the BCUC should clarify which portion of the rate increase is attributable to what BCUC considers an appropriate allocation of the CIAC, and which portion relates to maintenance and operating costs.²⁴ In the RRA proceeding, the depreciation expense for the 2021 test year includes a credit of \$68,636 relating to the depreciation of KCFN's CIAC.²⁵

KCFN submits that the RRA Decision lacks a detailed consideration of the potential impact to both ratepayers and utilities from passing on the Compliance Costs to ratepayers, and that costs that were imprudently incurred should not be borne by customers through rate increases.²⁶

KCFN asks the BCUC to reconsider KPL's revenue requirement based on two components; (i) reasonable and necessary costs, and (ii) the allowed rate of return.²⁷ Each component is addressed below.

Reasonable and Necessary Costs

In the RRA proceeding, the 2021 test year includes an allowance for \$50,000 in forecast capital additions for new powerline construction costs to partially address anticipated recommendations resulting from the Safety and Reliability proceeding.²⁸ KPL stated that the costs to be incurred are highly dependent on the timing and extent of any BCUC orders, and accordingly KPL does not have an overall estimate of the costs. However, KPL stated that the expenditures required to respond to BCUC directives will exceed the \$50,000 forecast.²⁹

The 2021 test year also includes \$100,000 for LTM costs, as an additional response to the recommendations arising from the BCUC-directed powerline maintenance and vegetation management plans. As of March 31, 2021, KPL submitted that a total of \$93,497 LTM costs had been incurred.³⁰ In the RRA Decision, the BCUC found that the \$100,000 LTM expenditure forecast was primarily based on actual expenditures and therefore, provided a reasonable basis for determining the revenue requirement for the 2021 test year.³¹

As for KPL's forecast of \$50,000 for expenditures required to respond to BCUC directives in the Safety and Reliability proceeding, the BCUC found that allowance for capital additions related to anticipated recommendations resulting from the Safety and Reliability Investigation to be a reasonable initial estimate. As noted by both the KCFN and KPL, further associated costs may be incurred in future years.³²

Allowed Return on Equity (ROE)

²² Exhibit B-1, para. 7 and 31.

²³ Ibid, para. 19 and 22.

²⁴ Ibid, para. 25.

²⁵ Decision and Order G-213-21, p. 6.

²⁶ Exhibit B-1, para. 37.

²⁷ Ibid, para. 12.

²⁸ Kyuquot Power Ltd. Revenue Requirements Application Proceeding, Exhibit B-1, p. 9.

²⁹ Kyuquot Power Ltd. Revenue Requirements Application Proceeding, Exhibit B-3, BCUC IR 4.2 and BCUC IR 4.2.1.

³⁰ Kyuquot Power Ltd. Revenue Requirements Application Proceeding, KPL Final Argument, p. 6.

³¹ Decision and Order G-213-21, p. 14.

³² Ibid.

KCFN notes that “KPL’s allowable return on equity is currently 75 basis points above the benchmark rate for utilities, such that there is apparently some room for the utility, and its shareholders, to earn a reasonable rate of return on its equity.”³³ The forecast allowed ROE in the Application is consistent with the BCUC-approved allowable ROE for KPL.³⁴ As part of the information request (IR) process, the BCUC explored the appropriateness of the current allowed ROE for KPL, including alternatives to setting an allowed percentage ROE and a comparison of the risk profile of KPL compared to that of Boralex Ocean Falls Limited Partnership.³⁵ In response to BCUC IRs, KPL stated that it believes that the current use of a 75 basis point increase in ROE for a “high risk” utility does not fully account for the increased risk of the very small size of KPL. KPL has not challenged the fairness of the allowed ROE in order to avoid rate impacts to the KPL customers, as the cost of challenging the BCUC’s determination would more than offset the gain from a potential increase.³⁶

Panel Determination

The Panel acknowledges KCFN’s argument that any costs associated with the remediation of longstanding compliance issues that have existed since the line was originally constructed should be found to be imprudent. In the RRA Decision, however, the BCUC found no evidence to suggest that the forecast capital additions and LTM costs included in the revenue requirement were unnecessary or imprudent.³⁷

Decisions made by public utilities are presumed to be prudent unless challenged on reasonable grounds. To be prudent, a decision must have been reasonable under the circumstances that were known to utility management at the time the decision was made. The burden is on those seeking to disallow the costs to prove reasonable grounds to displace the presumption that expenditures incurred were reasonable. At the second stage of the test, reached only if the presumption of prudence is overcome, the burden shifts to the public utility to prove that its decision was reasonable under the circumstances that were known to, or ought to have been known to, the public utility at the time the costs were incurred. Finally, hindsight should not be used to determine prudence.³⁸

For the Panel to reconsider the recovery of KPL’s Compliance Costs, KCFN must show that there are reasonable grounds to displace the burden on KCFN to demonstrate that the costs were not prudently incurred. Although KCFN has raised allegations of improper builds in the Safety and Reliability proceeding, the BCUC has not made any findings to date that that was the case.

In the absence of such findings and the lack of evidence in the RRA proceeding and this Reconsideration Application regarding such defects, there are no reasonable grounds for the Panel to find that the costs incurred by the utility were imprudent.

In its RRA Decision, the BCUC addressed KCFN’s Letter of Comment and found that it did not provide a regulatory justification for exclusion of the Compliance Costs.³⁹ A utility is able to recover reasonable and necessary costs in rates, so unless KCFN or another party presents sufficient evidence to show that the costs are

³³ Exhibit B-1, para. 23.

³⁴ Decision and Order G-213-21, p. 14.

³⁵ Kyuquot Power Ltd. Revenue Requirements Application Proceeding, Exhibit B-3, BCUC IR 7 series.

³⁶ Ibid, BCUC IR 7.9.

³⁷ Decision and Order G-213-21, p. 14.

³⁸ Ontario (Energy Board) v. Ontario Power Generation Inc., 2015 SCC 44, paras. 88–102.

³⁹ Decision and Order G-213-21, p. 13.

not reasonable and necessary or are imprudent, such costs will normally be recoverable in utility's rates as part of its revenue requirement.

In relation to KCFN's submission regarding its CIAC, the Panel notes the depreciation of the CIAC is beneficial to KCFN as it offsets the rate increase for KCFN.

The Panel agrees with the BCUC's determination in the RRA Decision that prudently incurred capital additions and LTM costs resulting from activities undertaken in compliance with BCUC orders should be recoverable in rates.

Reasonable and Necessary Costs

The Panel supports the BCUC's finding in the RRA Decision that the \$100,000 allowance for LTM costs is reasonable as the evidence confirms these costs are primarily based on actual expenditures. Further, the Panel considers the forecast allowance of \$50,000 in capital additions for new powerline construction costs to be conservative given that the expenditures are expected to exceed this amount, as acknowledged by both KPL and KCFN in the RRA proceeding.⁴⁰

These costs are necessary to comply with BCUC directives made in the Safety and Reliability proceeding for KPL to carry out the related work to ensure safety and reliability of its system. Increased safety and reliability are a benefit to KCFN and other KPL customers and were undoubtedly the impetus for initiating that proceeding.

Allowed Return on Equity

The Panel recognizes that the allowed risk premium approved by the BCUC for KPL is intended to account for KPL's higher risk profile compared to the low-risk benchmark rate for utilities, and there is no evidence to support an alternative to the allowed ROE for KPL.

3.3. Just and Reasonable Rate

KCFN asks the BCUC to review all relevant factors in setting a just and reasonable rate for ratepayers.⁴¹ KCFN states that the BCUC has an opportunity to strike a more equitable balance between the interests of ratepayers and those of the utility.⁴² Further, KCFN states that the BCUC's role in this proceeding is economic regulation; ensuring that rates are just and reasonable for the circumstances and to balance the competing interests of ratepayers with those of the utilities, while taking into account the broader public interest.⁴³

In the RRA Decision, the BCUC assessed the components of the forecast revenue requirement for the 2021 test period, including the capital additions and LTM regulatory account, and found that the forecast revenue requirement reasonably reflects KPL's forecast cost of service and is an appropriate basis on which to establish rates.⁴⁴

Panel Discussion

⁴⁰ Decision and Order G-213-21, p. 14.

⁴¹ Exhibit B-1, para. 2.

⁴² Ibid, para. 24.

⁴³ Ibid, para. 27.

⁴⁴ Decision and Order G-213-21, p. 12.

The Panel considers that the RRA Decision correctly determined the rate was reasonable based on the evidence on the record of the RRA proceeding.

In reviewing KCFN's submission for us to strike an equitable balance between the interests of ratepayers and those of the utility, we start with the principle that absent compelling evidence to the contrary, activities undertaken to ensure KPL's system is safe and reliable are presumed to be in the best interest of KPL's ratepayers, and the associated costs including the Compliance Costs are recoverable in rates as these costs are reasonable and necessary. Since KCFN has not provided sufficient evidence in the RRA proceeding or in this Reconsideration Application to satisfy us that we should make a contrary finding, there is nothing to contradict this principle. Further, KPL's deferral of system maintenance meant that KCFN and other ratepayers had no corresponding rate increases since 2018, which resulted in them having had the benefit of lower rates than might otherwise have been the case.

3.4. Complaints Process

In its submission, KCFN states that the RRA Decision may have unintended consequences, including discouraging complaints about the utility as ratepayers may fear that complaints will result in rate increases. KCFN states this is against public interest, adding "those ratepayers may choose to ignore hazards in order to avoid prohibitive energy costs."⁴⁵

Panel Discussion

The Panel accepts that KCFN's complaint drew attention to the need for ongoing regular maintenance and repair of the KPL line, and that KPL's remedial work has contributed to an increase in rates. However, the Panel does not agree with KCFN's assertion that inclusion of Compliance Costs in rates will encourage utilities to defer maintenance or discourage customers from seeking resolution of issues relating to safety and reliability.

There is no benefit to a utility for such behaviour as it risks liability and increased regulatory oversight. By the same token, the provision of safe and reliable energy is in the customer's best interests. The Panel considers it unlikely that customers would forego bringing safety and reliability concerns relating to the provision of their utility services to the attention of their utility service provider or to the BCUC for fear of incurring future rate increases.

Furthermore, aside from the BCUC complaints process, customers and the public continue to have opportunities to participate in BCUC proceedings to support BCUC determination of public utility rates to ensure they are just, reasonable and not unduly discriminatory or preferential. These opportunities may include the filing of letters of comment, applying for interested party or intervener status and the submission of expert evidence, with participant assistance available for eligible costs.

Panel Determination

The Panel finds that the BCUC considered all relevant facts based upon the evidentiary record before it in the RRA Decision. In the RRA proceeding, KCFN provided a Letter of Comment which expressed concerns regarding prudence of costs; however, no evidence was provided in that proceeding to support KCFN's assertions, specifically that KPL's Compliance Costs relate to issues that have existed since the construction of the KPL system. Further, the Safety and Reliability proceeding was ongoing at the time of the RRA proceeding and has

⁴⁵ Exhibit B-1, para. 32.

not yet concluded. As the Panel has already noted, the Safety and Reliability proceeding is a separate and distinct proceeding with a separate evidentiary record which is being reviewed by a different panel. The evidence before this Panel is limited to that of the RRA proceeding and KCFN's Reconsideration Application.

The Panel finds that on its face, the Reconsideration Application does not provide sufficient grounds for reconsidering the RRA Decision nor has KCFN shown to the satisfaction of the Panel that there is otherwise just cause for reconsideration under Rule 26.05. Accordingly, the Panel summarily dismisses KCFN's Reconsideration Application pursuant to Rule 28.01. However, the Panel encourages KCFN to participate in KPL's future RRA proceeding following the conclusion of the Safety and Reliability proceeding. The findings to be made in the Safety and Reliability proceeding may assist KCFN to determine whether there is a basis to request a prudency review of the Compliance Costs in KPL's future RRA proceedings, or to pursue alternative avenues of relief against KPL and others.

The Panel acknowledges that KCFN may have capacity constraints. Pursuant to section 118 of the UCA, the BCUC has established Participant Assistance/Cost Award funding to enable interested parties who otherwise may lack capacity to participate in its proceedings. This includes the possibility of the BCUC approving interim cost awards early in the proceeding.⁴⁶ Additionally, panels frequently seek participants' input into the conduct of BCUC proceedings and the establishment of regulatory timetables. The KCFN may also seek guidance from the BCUC's Commission Secretary in accessing information on how to participate in its proceedings effectively and efficiently.

⁴⁶ Participant Assistance/Cost Award Guidelines: https://docs.bcuc.com/documents/Guidelines/2021/G-97-17_BCUC_PACA-Guidelines.pdf