



**ORDER NUMBER
G-377-21**

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

and

Ka:'yu:'k't'h' / Che:k'tles7et'h' First Nations
Complaint concerning Kyuquot Power Ltd.'s Planned Week-Long Power Outages

BEFORE:

C. M. Brewer, Panel Chair
A. C. Dennier, Commissioner

on December 16, 2021

ORDER

WHEREAS:

- A. On August 31, 2021, Ka:'yu:'k't'h' / Che:k'tles7et'h' First Nations (KCFN), filed a complaint against Kyuquot Power Ltd. (KPL) with the British Columbia Utilities Commission (BCUC) regarding a lack of notification for a planned power outage starting on August 31, 2021, that was to last five days. KCFN requested the BCUC order KPL to postpone the power outage and conduct further consultation with its customers for a preferred time for the outage and the content of future power outage notices (Complaint) (Application);
- B. The KPL power distribution system (KPL System) is interconnected to the British Columbia Hydro and Power Authority (BC Hydro) electric system and supplies electricity to KCFN, the Village of Hupsitas and others on the outer coast of Kyuquot Sound;
- C. On May 15, 2020, by Order G-115-20, the BCUC established a hearing to review the safety and reliability of the KPL power distribution system, following an earlier complaint by a representative of the KCFN (Safety and Reliability Proceeding);
- D. Section 24 of KPL's Electric Tariff (Tariff) states, "Electric service may be temporarily suspended to make repairs or improvements to the Company's system or in the event of fire, flood, cable failure, or other emergency. The Company will, whenever practicable, give notice of such suspension to the Customer and will restore service as soon as reasonably possible";
- E. On June 2, 2021, KCFN submitted an additional complaint as part of the Safety and Reliability Proceeding regarding adequacy of notice by KPL for recent power outages. KCFN also submitted copies of 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 setting out KCFN's concerns over the safety of KPL's "fly-over" line through Hupsitas;
- F. On June 16, 2021, KPL responded to KCFN's submissions acknowledging that it has established processes for notifying customers when a planned outage is scheduled, but that, due to an error, that process was

not followed. KPL further stated that it will provide, by email to KCFN's Chief Administrative Officer (CAO) 48 hours advance notice of any future planned service outages;

- G. By Order G-212-21, dated July 9, 2021, the BCUC directed KPL to provide a 48-hour notice to its customers for any planned outages;
- H. On August 31, 2021, KPL responded to the Complaint, stating that on August 25, 2021, in accordance with its Tariff, a notification had been provided to an email address that KCFN had provided as its billing address. KPL also submitted that the maintenance work required a line truck to be barged in, and the truck and crew had commenced the work. Further, KPL stated that postponing the work would delay the deadlines imposed by the BCUC in the Safety and Reliability Proceeding;
- I. In its response dated August 31, 2021, KCFN maintained that the notice should have been sent to its CAO, as committed to by KPL;
- J. On September 2, 2021, the BCUC issued Order G-257-21 establishing a regulatory timetable to review the Complaint and requested responses to the Complaint from both parties while directing KPL to proceed with the current planned outage;
- K. On September 13, 2021, KPL issued its response to Order G-257-21, and subsequently on September 22, 2021, KCFN issued a redacted response to the KPL's submission; and
- L. The BCUC reviewed the Complaint and additional information filed with the BCUC and determines that although KPL followed the Tariff (Section 24) and Order G-212-21 with respect to the advance notice of an outage, further improvements to the advance notification and additional reporting are warranted.

NOW THEREFORE pursuant to section 83 of the *Utilities Commission Act*, the BCUC orders the following:

- 1. Within six (6) months of this Order, KPL is to hold a workshop with KCFN and its other customers to consider the matters set out in the Decision (Workshop) issued concurrently with this Order;
- 2. Within 30 days of the Workshop, KPL is to file with the BCUC a summary report that includes the number of participants and a summary of the discussion;
- 3. Within three (3) months of the Workshop, KPL is to file with the BCUC a communication plan as outlined in the Decision for notifying customers of planned outages; and
- 4. KPL is to file a comprehensive outage report as outlined in the Decision.
- 5. The Complaint is closed.

DATED at the City of Vancouver, in the Province of British Columbia, this 16th day of December 2021.

BY ORDER

Original signed by:

C. M. Brewer
Commissioner

Attachment

Ka:'yu:'k't'h' / Che:k'tles7et'h' First Nations
Complaint Concerning Kyuquot Power Ltd.'s Planned Week-Long Power Outages

REASONS FOR DECISION

1.0 Background

1.1 Kyuquot Power Ltd.

Kyuquot Power Ltd. (KPL) operates a 14.4 kV single phase distribution line in the area extending from British Columbia Hydro and Power Authority's (BC Hydro) electrical grid at Oclucje to Kyuquot. KPL has supplied electrical power to customers principally in and around Fair Harbour, Chamiss Bay and Kyuquot since June 2006. KPL serves commercial and residential customers under Tariff Rate Schedule 1101 (RS 1101) and the Ka:yu:'k't'h'/Che:k'tles7et'h' First Nations (KCFN) under Tariff Rate Schedule 1102 (RS 1102).¹

1.2 Complaint

On August 31, 2021, KCFN, filed a complaint against KPL with the British Columbia Utilities Commission (BCUC) regarding a lack of notification for a planned power outage starting on August 31, 2021, that was to last five days. KCFN requested the BCUC order KPL to postpone the power outage and conduct further consultation with its customers for a preferred time for the outage and the content of future power outage notices (Complaint);

The KPL power distribution system is interconnected to the BC Hydro electric system and supplies customers, including KCFN, the village of Houpsitas and others on the outer coast of Kyuquot Sound, with electricity.

The BCUC is also currently undertaking a proceeding to review KPL's safety and reliability of the power distribution system (Safety and Reliability Proceeding), following an earlier complaint by the KCFN.² As part of the Safety and Reliability Proceeding, KCFN submitted an additional complaint regarding adequacy of notice by KPL for recent power outages. The BCUC issued Order G-212-21 and directed KPL, among other things to follow its Electric Tariff (Tariff) with respect to providing notice to its customers when suspending service for repairs or improvements on the KPL system.

In the Complaint, KCFN states that they did not receive notice of a power outage commencing on August 30, 2021 through September 3, 2021, lasting approximately 5 days. KCFN states that it did not receive written notice of the outage, but learned of it from neighbours, who provided them with a copy of KPL's letter. KCFN stated that this outage was more than a minor inconvenience and that it would have significant consequences that require much more advanced notice to allow for proper planning.³

KCFN requests, among other things, the BCUC to order that KPL:

1. Consult with KCFN (and other customers) about a more appropriate schedule for the outage to facilitate necessary work on its power line;
2. Ensure all future notice of any scheduled power outages provide details concerning the windows of time in each day for service interruption;
3. Provide at least 30 days-notice for any scheduled power interruptions that will impact more than one (1) day in a certain week; and

¹ Decision and Order G-213-21 p. i

² <https://www.bcuc.com/OurWork/ViewProceeding?ApplicationId=763>

³ Exhibit B-1, p.2.

4. Without limiting the preceding point, KPL must work with KCFN to determine appropriate timelines for advance notice of power outages according to the nature and duration of service interruptions.⁴

Upon the receipt of the Complaint, Staff⁵ initiated the BCUC complaints process,⁶ which occurs in instances where a utility and its customer are not able to resolve customer concerns amongst themselves. During the complaints process, BCUC staff facilitate communication between the parties and asks the utility to respond to the concerns raised by the complainant. The process then provides the complainant with an opportunity to reply to the utility's comments.

KPL responded to the Complaint, stating that a notification had been sent to KCFN, and that maintenance work should therefore proceed. In response, KCFN disagreed with KPL, maintaining that BCUC should make a determination on the issues they raised in the Complaint.⁷ As the Complaint was not resolved through the staff-led complaints process, a Panel was appointed to consider the Complaint⁸. The correspondence received in the complaints process appear as exhibits A2-1 to A2-5 in the evidentiary record for this proceeding.⁹

On September 2, 2021, the BCUC issued Order G-257-21 establishing a regulatory timetable to review the Complaint. KPL had already started the maintenance work as directed by the BCUC in the Safety and Reliability Proceeding¹⁰ prior to the Complaint. As such, the BCUC directed KPL to proceed with the current planned outage and maintenance work and both KPL and KCFN were directed to file submissions on how the notification process would work for future power outages.¹¹

2.0 Regulatory Framework

Under section 83 of the *Utilities Commission Act* (UCA), if a complaint is made to the BCUC, the BCUC has powers to determine whether a hearing or inquiry is to be had, and generally whether any action on its part is or is not to be taken.

Consistent with the BCUC Customer Complaints Guide,¹² the Panel has, amongst other things, referred to KPL's approved Tariff which contains the terms and conditions of service between KPL and its customers to ensure KPL's actions were in accordance with the approved Tariff, and Order G-212-21, which ordered KPL to provide 48 hours written notice to its customers when suspending service for repairs or improvements on the KPL system that are not of an emergent nature.

3.0 Submissions

3.1 KCFN's Submissions

In the Complaint, KCFN states it did not receive written notice of power outages that KPL planned throughout the week of August 30 to September 3, 2021. Instead, KCFN received notification of the planned outages from

⁴ Exhibit B-1, p.3. and B-2, p.2

⁵ BCUC Staff

⁶ <https://www.b cuc.com/WhatWeDo/ComplaintProcess>

⁷ Exhibits A2-1 to A2-5

⁸ Exhibit A-1.

⁹ <https://www.b cuc.com/OurWork/ViewProceeding?ApplicationId=926>

¹⁰ Order G-309-20, Safety and Reliability Proceeding

¹¹ <https://www.ordersdecisions.b cuc.com/b cuc/orders/en/item/512417/index.do?q=G-257-21>

¹² <https://www.b cuc.com/Documents/Complaints/BCUC-Customer-Complaints-Guide-Feb-2017.pdf>

another KPL customer but found that the information provided in the notice to be unclear and uncertain as to the details of the planned outages.

KCFN notes that the planned outages were more than a minor inconvenience, and that a planned outage for nearly an entire week requires more advance notice to allow for proper planning by ratepayers. KCFN states that the planned outage had a unique impact on KCFN as a remote Indigenous community and government, as well as on business¹³. KCFN states that KCFN had to make rush arrangements to ensure its residents continue to receive needed services during the planned outage. KCFN submits that KPL specifically committed to notify KCFN's Chief Administrative Officer (CAO) regarding planned outages; however, KPL did not meet that commitment¹⁴.

Additionally, KCFN noted that it understands that routine scheduled power outages are required for the safe and reliable operation of a power line but states that KPL's failure to communicate directly with KCFN about this outage was particularly problematic in light of the ongoing communication issues raised in the ongoing Safety and Reliability Proceeding.¹⁵

2.2 KPL's Submission

KPL confirmed that the notice of outage was sent to KCFN's billing address on August 25, 2021, in advance of the 48-hour notice period.

In its submission dated September 13, 2021, KPL states that with respect to the planned maintenance work:

"The KPL System is located in a very remote area on the west coast of Vancouver Island and only portions of it are accessible by road from central Vancouver Island. The remainder is accessible by water transport including barge if line trucks are required. The provision of detailed schedules and duration of planned outages is dependent on many factors that are not reasonably foreseeable. These include contractor availability and travel conditions, the availability of the work site i.e. the ability to perform the work is very weather dependent, immediate and forecast weather conditions, actual work progress vs estimated work progress and limited crew availability"¹⁶

KPL indicates that the 48-hour timeframe of notice of a planned outage set out in Order G-212-21 and Section 24 of the Tariff is appropriate since the climactic and weather conditions at Kyuquot are highly variable as are the planning and availability of contractors such that 30 days' notice is not practicable. It also points out that mail is delivered 3 times per week, so in order to provide sufficient notice to 20 of its 42 customers who receive notice by mail, notice must be mailed well in advance.¹⁷

KPL agrees that a notice for a planned outage should be sent to the KCFN's CAO, but states that this is contingent on KCFN providing KPL with a current e-mail or replacement means of sending an electronic notice to the holder of the office of CAO¹⁸. With respect to KPL adjusting its scheduled outages KPL agrees that it should accommodate customers, where practical, while ensuring that accommodation is not unduly discriminatory to other customers.¹⁹

¹³ Exhibit B-1, p. 2

¹⁴ Exhibit A-2-1,p.6

¹⁵ <https://www.bcuc.com/OurWork/ViewProceeding?ApplicationId=763>

¹⁶ Exhibit C1-1 p.2

¹⁷ Ibid at p.1

¹⁸ Ibid at p. 1

¹⁹ Ibid at p. 3

2.3 KCFN's Reply

In the complaints process²⁰ which occurred prior to this proceeding²¹, KCFN notes that the remoteness of KCFN and the surrounding communities is the reason that more notice is required because running generators for extended periods requires advanced planning, and customers need to transport diesel from outside the community under difficult conditions. KCFN submits that if KPL requires arrangements for work on the KPL system to be made "well in advance" to barge a line truck to Houpsitas, then it is not clear why more timely notice of a planned outage could also not have been provided to all KPL customers, and in particular, to KCFN.²²

3.2 Panel Discussion

The parties agree that KPL's notice letter to KCFN was sent to KCFN's accounting firm. This is consistent with the terms of its Tariff because that was the address that KCFN provided to KPL on its utility account; however, it appears that the notice was not brought to KCFN's attention. This Panel notes that KPL has previously acknowledged that it would ensure that KCFN's CAO would be informed of any planned outages.²³ The Panel also notes that in its September 13, 2021 submission, KPL agreed to notify KCFN directly of planned outages as long as KCFN provides KPL with an up-to-date e-mail address of the office of the CAO. This highlights to the Panel an apparent lack of communication between KPL and KCFN.

The Panel notes that both parties agree that KPL should consult with KCFN and its other customers about further planned outages, but KPL points to factors that support a 48-hour notice period while KCFN presents compelling reasons for longer notice. While the Panel recognizes that there may be circumstances where providing more than 48-hours' notice of a planned outage may be impracticable, the Panel does not accept that KPL could not have provided longer notice of this work to KCFN in this circumstance. This Panel is aware that KPL is in the process of undertaking steps to improve the safety and reliability of its line and due to these improvements, outages for maintenance work such as this will occur, but advanced planning is required.

As is clear from both parties' submissions, servicing KPL's system to undertake major work such as this requires arrangements to be made well in advance, and while variable climatic and weather conditions may require adjustments in timing, it seems reasonable to expect that the timing of outages could be better coordinated and communicated to minimize impacts on customers, and on KCFN in particular.

3.3 Panel Determination

The Panel acknowledges the constraints KPL must consider with respect to the remoteness of the location it is serving and any possible inclement weather conditions before undertaking scheduled maintenance work. However, it is equally clear that in order for KCFN to properly service its community, KCFN needs sufficient time to prepare for longer outages. The Panel finds that enhancements to KPL's customer communication, and specifically KCFN, is warranted. **The Panel, therefore, directs KPL to ensure adequate notice for all scheduled work is provided in a timely manner.**

In order to determine the most appropriate form and timing of notice, the Panel directs KPL, within six months of this Order, to hold a workshop with all of its customers, including KCFN, to discuss the upcoming plans for work on the line that may impact service, effective mechanisms for notification of outages, any blackout periods, periods that KPL and its customers agree when planned outages should be avoided, and any other service-related matters.

²⁰ <https://www.bcuc.com/WhatWeDo/ComplaintProcess>

²¹ Exhibits A2-1 to A2-5

²² Exhibit A2-5 p.4

²³ Exhibit from safety and reliability proceeding – D-38, pp. 4-5

The Panel also directs KPL, within 30 days of the workshop, to file with BCUC, a summary report that includes the number of participants and highlights of the discussion. Three months following the workshop, KPL is directed to file with the BCUC a communication plan report for notifying customers of planned outages, including notification periods, information to be communicated, and, with respect to KCFN, where notice is to be sent, the content of notice, who at KPL the KCFN should contact for additional information or to provide feedback on the timing, and how KPL could confirm receipt of such notifications to KCFN.

Additionally, due to the ongoing nature of the complaints that have occurred with respect to outage notifications, **the Panel directs KPL to file with the BCUC a comprehensive outage report in its next Revenue Requirements Application (RRA). This report should note the number of outages, the duration, the time of day it occurred, the cause for the outage, as well as complaints received and how they were resolved.**

Based on the review of the information provided and having considered the BCUC's direction to KPL with respect to its communication to its customers, the BCUC closes this Complaint.