



ORDER NUMBER
G-177-22

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 June 29, 2022

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 Hupsitas 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, G-39-21, G-79-21, G-94-21, G-129-21, G-212-21, G-368-21 and G-382-21, 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. Crown Corridor is defined in Chapter 7 of the Maa-nulth First Nations Final Agreement;
- G. 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;

- H. 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;
- I. 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;
- J. 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;
- K. 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";
- L. 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;
- M. On December 31, 2021, KPL filed its latest Quarterly Report and on January 6, 2021, KPL submitted a request to the BCUC that it no longer be required to submit Quarterly Reports as all action items detailed in the Vegetation Plan and Maintenance Plan are now complete. The BCUC granted KPL relief from filing Quarterly Reports;
- N. On January 14, 2022, KCFN submitted an application with the BCUC for reconsideration of Directives 1 and 2 of Order G-368-21 (Reconsideration Application) and on February 10, 2022, by Order G-27-22, the BCUC established a hearing to review KCFN's Reconsideration Application;
- O. On February 11, 2022, by Order G-30-22, the BCUC adjourned the proceeding investigating the safety and reliability of the KPL system pending the outcome of the Reconsideration Application;
- P. By Order G-157-22 dated June 10, 2022, the BCUC reconsidered order G-368-21 and rescinded the directives that KCFN is a public utility as defined in Section 1(1) of the UCA and that KCFN was required to negotiate a joint use agreement with KPL and provide submissions on its exemption from sections of the UCA; and
- Q. The BCUC has reviewed the submissions to-date and determines that further regulatory process is warranted.

NOW THEREFORE pursuant to the *Utilities Commission Act* the BCUC orders the following:

1. KPL is directed to negotiate an agreement with KCFN regarding the use of KCFN facilities within the Crown Corridor or otherwise on KCFN-owned structures or land and to file the agreement with the BCUC within 6 months of the date of this order.
2. If KPL is unable to negotiate an agreement as set out in directive 1 of this order, KPL is directed to submit a plan to the BCUC explaining how KPL intends to access land and KPL equipment as necessary to perform maintenance activities and ensure the ongoing safe and reliable operation of its system.
3. The remainder of the regulatory timetable is established as set out in Appendix A to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 29th day of June 2022.

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)
KPL Written Final Argument Submission*	Thursday, July 14
KCFN Written Final Argument Submission*	Thursday, July 28
KPL Reply Argument Submission	Thursday, August 11

*The BCUC requests that final argument submissions be limited to topics which parties did not already address in Argument submissions dated March 1, 18, and 15, 2021.