

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. V6Z 2N3 CANADA
web site: <http://www.bcuc.com>



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-13-06**

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

**IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473**

and

**Applications for Participant Assistance/Cost Awards
in an Application by British Columbia Transmission Corporation
for a Certificate of Public Convenience and Necessity
for Vancouver Island Transmission Reinforcement Project**

BEFORE: R.H. Hobbs, Chair
N.F. Nicholls, Commissioner
L.A. O'Hara, Commissioner August 31, 2006

O R D E R

WHEREAS:

- A. On July 7, 2006, the British Columbia Utilities Commission (the "Commission") issued a Decision and Order No. C-4-06 setting out its decision on the application of British Columbia Transmission Corporation ("BCTC") for a Certificate of Public Convenience and Necessity ("CPCN") for the Vancouver Island Transmission Reinforcement Project ("VITR"); and
- B. The Commission Panel established a funding cap of \$550,000 for Participant Assistance/Cost Award ("PACA") funding for participation in the proceeding on the VITR application by BCTC, and subsequently increased this cap to \$900,000; and
- C. On May 4, 2006, Maracaibo Estates Ltd. and Strata Corporation 905 ("Maracaibo") applied for a PACA for its participation in the VITR proceeding; and
- D. On June 26, 2006, the Tsawwassen Residents Against Higher Voltage Overhead Lines Society ("TRAHVOL") applied for a PACA for its participation in the VITR proceeding, and on August 8, 2006 amended its application; and
- E. On June 28, 2006, the Island Residents Against High Voltage Overhead Lines ("IRAHVOL") applied for a PACA for its participation in the VITR proceeding, and on June 29, 2006 amended its application; and
- F. On June 28, 2006, the Joint Industry Electricity Steering Committee ("JIESC") applied for a PACA for their participation in the VITR proceeding; and
- G. On June 29, 2006, the Corporation of Delta ("Delta") applied for a PACA for its participation in the VITR proceeding, and on August 16, 2006 amended its application; and
- H. On June 30, 2006, the Hul'qumi'num Treaty Group ("Hul'qumi'num") applied for a PACA for their participation in the VITR proceeding; and

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- I. On June 30, 2006, the British Columbia Public Interest Advocacy Centre on behalf of the B.C. Old Age Pensioners' Organization et al. ("BCOAPO"), applied for a PACA for their participation in the VITR proceeding; and
- J. On July 24, 2006, the Commercial Energy Consumers Association of British Columbia ("CEC") applied for a PACA for its participation in the VITR proceeding; and
- K. On August 11, 2006, Sea Breeze Victoria Converter Corporation ("Sea Breeze") applied for a PACA for its intervention in the VITR proceeding, and on August 14, 2006 provided additional information to clarify its application; and
- L. On August 4, 2006, BCTC provided its comments on the PACA applications submitted to that date, and stated that the cost claims appear to be consistent with the Commission's PACA Guidelines; and
- M. On August 22, 2006, BCTC provided its comments on the PACA application submitted by Sea Breeze. BCTC stated that it considered the magnitude of the Sea Breeze cost claim reasonable in comparison to other cost claims made for the proceeding and to the effort that Sea Breeze expended, but went on to suggest that the Commission require Sea Breeze to provide more information and further explanation in support of its application; and
- N. On August 25, 2006, Sea Breeze responded the comments of BCTC on the Sea Breeze PACA application; and
- O. The Commission Panel has reviewed the PACA applications with regard to the criteria and rates set out in the Guidelines in Commission Order No. G-15-04 and the established funding cap; and has concluded that, after making a number of changes to the amounts of funding requested for the Reasons for Decision that are set out in Appendix A to this Order, certain cost awards should be approved for participants in the VITR proceeding.

NOW THEREFORE the Commission orders as follows:

- 1. Pursuant to Section 118(1) of the Utilities Commission Act, the Commission awards funds to the following for their participation in the VITR proceeding:

	<u>Application</u>	<u>Award</u>
Maracaibo	\$426.12	\$426.12
Hul'qumi'num	20,289.84	18,933.98
TRAHVOL	255,098.68	211,539.57
Delta	118,832.62	0.00
BCOAPO	86,233.63	80,471.09
CEC	53,763.00	36,172.67
IRAHVOL	283,404.39	211,444.69
JIESC	124,646.00	89,286.94
Sea Breeze	298,457.89	251,724.94
TOTAL	<u>\$1,241,152.17</u>	<u>\$900,000.00</u>

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2. The PACA award to Sea Breeze relates to its intervention in the VITR proceeding, and does not address any application that Sea Breeze may submit for costs with respect to its application for a CPCN for the Vancouver Island Cable Project.
3. BCTC is directed to reimburse the above noted participants for the total amounts awarded in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 7th day of September 2006.

BY ORDER

Original signed by:

Robert H. Hobbs
Chair

Attachment

**British Columbia Transmission Corporation
Certificate of Public Convenience and Necessity Application
Vancouver Island Transmission Reinforcement Project**

Participant Assistance/Cost Award Applications

REASONS FOR DECISION

1.0 INTRODUCTION

The Commission issued its Decision dated July 7, 2006 and Order No. C-4-06 in response to the British Columbia Transmission Corporation (“BCTC”) Application for a Certificate of Public Convenience and Necessity for the Vancouver Island Transmission Reinforcement Project (“VITR”).

As set out in the Order that accompanies these Reasons for Decision, the Commission received nine applications pursuant to Section 118 of the Utilities Commission Act for Participant Assistance/Cost Award (“PACA”) funding for the VITR proceeding. The PACA cost awards requested in the applications total \$1,241,152.17.

Section 118 provides that the Commission Panel may make cost awards for participation in a proceeding. The Commission’s PACA Guidelines are set out in Appendix A to Order No. G-15-04, and state:

“In determining an award of all or any portion of a Participant’s costs, the Commission panel will consider the following:

- i. Does the Participant represent a substantial interest in the proceeding and will the Participant be affected by the outcome?
- ii. Has the Participant contributed to a better understanding of the issues by the Commission?
- iii. Are the costs incurred by the Participant for the purposes of participating in the proceeding fair and reasonable?
- iv. Has the Participant joined with other groups with similar interests to reduce costs?
- v. Any other matters appropriate in the circumstances.

If the Commission panel considers it to be an appropriate consideration in a proceeding, the Commission panel may consider the Participant’s ability to participate in the proceeding without an award.”

The Commission panel for the VITR proceeding established a PACA funding cap of \$550,000 for the proceeding, and subsequently increased the cap to \$900,000. Participants who filed PACA budgets were informed of the PACA cap.

2.0 PROCEEDING AND PREPARATION DAYS

The Section 4 of the PACA Guidelines states that proceeding days may include workshop days, negotiation days, pre-hearing conference days, and hearing days; and that the Commission panel may award costs for preparation days, typically on a ratio of up to two preparation days per proceeding day.

Maximum daily costs for legal counsel and consultants are based on an eight hour day and are to be prorated for part days. The number of full or partial proceeding days for the VITR proceeding and the Commission panel's determination on the number of full prorated proceeding days are as follows:

	DAYS	PRORATED PROCEEDING DAYS
Procedural and Pre-hearing Conference	3	1.5
Town Hall Meetings	2	0.0
Open Oral Submissions	2	1.0
Oral Hearing	33	31.0
Oral Argument Phase	2	1.5
	42	35.0

The Commission panel determines for the VITR proceeding that costs will generally be awarded on a ratio of two preparation days for each proceeding day, which results in 105 days as the maximum number of days that typically may receive funding.

The Commission panel determines that there will be two small exceptions to the application of 105 days as the cap on the number of days that may receive funding. Counsel for Island Residents Against Higher Voltage Overhead Lines ("IRAHVOL") did not attend the part day Procedural Conference on November 10, 2005, and consequently IRAHVOL's cap for legal counsel is reduced to 104 days. Counsel for Sea Breeze Victoria Converter Corporation ("Sea Breeze") played the major role at the brief Oral Submission day on February 1, 2006 and consequently Sea Breeze's cap for legal counsel is increased to 105.5 days.

Since in some cases two legal counsel with different maximum daily costs were involved, the Commission has adjusted the applied-for legal counsel costs by the ratio of funded days to claimed days.

3.0 ADJUSTMENTS TO INDIVIDUAL PACA APPLICATION AMOUNTS

The Commission has reviewed the nine PACA applications and determines that the following reductions will be made to the amounts of cost awards requested in the applications:

Tsawwassen Residents Against Higher Voltage Overhead Lines Society (“TRAHVOL”)

TRAHVOL claimed legal counsel costs of \$227,286.00 based on 120 days. The adjusted amount is $\$227,286.00 \times 105/120 = \$198,875.25$. The TRAHVOL adjusted cost award amount is \$226,687.93.

Corporation of Delta (“Delta”)

Under the PACA Guidelines, when determining the eligibility of a participant for an award of all or any portion of its costs, the Commission panel is to consider if the participant represent a substantial interest in the proceeding and if it will be affected by the outcome. The Commission panel also may consider the participant’s ability to participate in the proceeding without an award. In previous proceedings, the Commission has typically interpreted the criteria in the Guidelines to mean that it will not fund municipalities, except in unusual circumstances such as where the municipality is a wholesale customer of the utility.

In its PACA Application for a cost award of \$118,832.62, Delta submits that the impacts it faces as an owner of land subject to potential impact in the case of VITR Options 2 and 3, and in representing the interest of a significant part of the community, the VITR proceeding was an unusual circumstance. Delta states that its request for participant funding in this proceeding is appropriate, justified and reasonable, and that it is not aware of any reason for it to be denied.

After considering the matter and Delta’s submissions, the Commission panel is of the view that, since the municipality can raise funding from its residents, Delta was able to participate in the proceeding to the extent it considered necessary without a PACA funding award. Therefore, the Commission panel denies Delta’s application for a cost award in the VITR proceeding.

Commercial Energy Consumers Association of British Columbia (“CEC”)

As discussed on page 28 of the VITR Decision dated July 7, 2006, TRAHVOL and the Delta School Board sought to have letters concerning CEC’s membership and representation included in the record of the proceeding. The Commission panel considered that the information concerning CEC was relevant as to weight of CEC’s submission, and accepted the letters as part of the record.

One of the PACA Guidelines is whether the participant represents a significant interest in the proceeding, and will be affected by the outcome. Because of the questions that were raised about CEC’s membership and the extent to which the membership was consulted and provided instructions on the content of CEC’s submissions, the Commission panel determines that the \$53,763.00 cost award amount that CEC applied for should be adjusted downward by \$15,000.00 to an adjusted cost award amount of \$38,763.00.

IRAHVOL

IRAHVOL claimed legal counsel costs of \$245,624.00 based on 126 days. The adjusted amount is $\$245,624.00 \times 104/126 = \$202,737.27$.

The Commission panel concludes that IRAHVOL case manager fees should be based on the 35 prorated proceeding days and a daily fee of \$500.00 per day that has been used for case managers in other situations, and determines an adjusted case manager amount of $35 \text{ days} \times \$500 \text{ per day} \times 1.07 \text{ (GST)} = \$18,725.00$.

The Commission panel concludes that the evidence of William Dunford was of limited value in its contribution to a better understanding of the issues by the Commission, and determines that funding for this consultant should be reduced to one-half of the Dunford Engineering Services costs, for an adjusted amount of \$3,210.00.

With the foregoing adjustments, the IRAHVOL adjusted cost award amount is \$226,586.26.

Joint Industry Electricity Steering Committee (“JIESC”)

The JIESC applied for a PACA cost award of \$124,646.00, including 44 days of hearing preparation for Associate legal counsel. Due to the modest participation of the Associate legal counsel in the proceeding, the Commission panel concludes that the hearing preparation time for Associate legal counsel should be reduced by one-half to 22 days and determines that the JIESC applied-for amount is adjusted downward by $22 \text{ days} \times \$1,170$

per day = $\$25,740 + \text{GST at 7 percent of } \$1,801.80 + \text{PST of } \$25,740.00 \times \$5,405/\$97,740 = \$1,423.42$. With the total reduction of \$28,965.22 the JIESC adjusted cost award amount is \$95,680.78.

Sea Breeze

Sea Breeze claimed legal counsel costs of \$174,879.00 based on 114.9 days. The adjusted amount is $\$174,879.00 \times 105.5/114.9 = \$160,572.10$.

The Commission panel concludes that the non-expert consultant preparation time of Dr. Zak El-Ramly should be reduced by one-half to 12.0 days, for a reduction of 12 days $\times$ \$1,200 per day = \$14,400. Dr. El-Ramly's \$65,040 applied-for fee is adjusted to \$50,640.00.

With the foregoing adjustments, the Sea Breeze adjusted cost award amount is \$269,750.99.

4.0 PRORATION TO PACA FUNDING CAP

Maracaibo Estates Ltd. and Strata Corporation 905 applied for reimbursement of the relatively modest amount of \$426.12 for its expenses to attend portions of the proceeding, and the Commission panel determines that this amount should be funded in full.

The Commission panel concludes that the remaining PACA application amounts, after the adjustments set out in Section 3.0, should be prorated so that the total PACA funding for VITR proceeding complies with the \$900,000.00 funding cap. This requires that the adjusted cost award amounts be reduced by approximately 6.68 percent. The prorated adjusted cost award amounts are shown in the Order that accompanies these Reasons for Decision.