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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-23-08**

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

and

**Applications for Participant Assistance/Cost Award
with respect to the British Columbia Transmission Corporation
Application for a Certificate of Public Convenience and Necessity for the
Interior to Lower Mainland Transmission Project**

BEFORE: R.H. Hobbs, Panel Chair and Commissioner
N.F. Nicholls, Commissioner September 16, 2008
A.J. Pullman, Commissioner

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

WHEREAS:

- A. On November 5, 2007, the British Columbia Transmission Corporation ("BCTC") applied (the "Application") pursuant to sections 45 and 46 of the Utilities Commission Act (the "Act") for a Certificate of Public Convenience and Necessity ("CPCN") for the Interior to Lower Mainland ("ILM") Transmission Project (the "ILM Project"); and
- B. The Commission established a Regulatory Timetable for the Application's review that included two Procedural Conferences, followed by a Written Public Hearing process, which concluded with BCTC's Reply Argument filed on June 3, 2008; and
- C. By Order C-4-08 dated August 5, 2008, the Commission issued its Decision granting a Certificate of Public Convenience and Necessity to BCTC for the ILM Project subject to the conditions and directions set out in the Order and Decision; and
- D. By letter dated July 17, 2008, the Independent Power Producers Association of British Columbia ("IPABC") applied for a participant assistance cost award with respect to its participation in the BCTC ILM proceeding; and
- E. By application dated July 17, 2008 Mr. Alan Casselman and Mr. Donald Harris ("Harris-Casselman") applied for a participant assistance cost award with respect to their participation in the BCTC ILM proceeding; and

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- F. By letter dated July 28, 2008, the Kwikwetlem First Nation ("Kwikwetlem") applied for a participant assistance cost award with respect to its participation in the BCTC ILM proceeding; and
- G. By letter dated August 26, 2008, BCTC commented on the cost award applications; and
- H. The Commission has reviewed the PACA applications with regard to the criteria and rates set out in the Guidelines in Commission Order G-72-07.

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 participants for their participation in the ILM proceeding.

	Application	Award
IPPBC	\$47,444.25	\$18,228.00
Kwikwetlem	5,880.00	5,880.00
Harris-Casselman	<u>10,892.00</u>	<u>4,200.00</u>
	<u>\$64,216.25</u>	<u>\$28,308.00</u>

2. 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 16th day of September 2008.

BY ORDER

Original signed by

A.J. Pullman
Commissioner

Attachment

Applications for Participant Assistance/Cost Award
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REASONS FOR DECISION

1. INTRODUCTION

On November 5, 2007 the British Columbia Transmission Corporation (“BCTC”) filed an application with the British Columbia Utilities Commission (“Commission”) for an Order issuing a Certificate of Public Convenience and Necessity (“CPCN”) for its proposed project to increase the transfer capability of the Interior to Lower Mainland (“ILM”) grid (“ILM Project”). By Commission Order G-61-08 dated March 28, 2008, the Commission determined that the ILM proceeding could be completed as a written process. By Commission Order C-4-08 dated August 5, 2008 a CPCN was issued for the ILM Project.

As set out in the Order that accompanies these Reasons for Decision, the Commission received three applications pursuant to section 118 of the Utilities Commission Act for Participant Assistance/Cost Award (“PACA”) funding for the proceeding. The PACA cost awards requested in the applications total \$64,216.25.

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 G-72-07, and state:

“The Commission Panel will first consider whether the Participant has a substantial interest in a substantial issue in the proceeding ... The Commission Panel will then consider the following:

1. Will the Participant be affected by the outcome?
2. Has the Participant contributed to a better understanding of the issues by the Commission?
3. Are the costs incurred by the Participant for the purposes of participating in the proceeding fair and reasonable?
4. Has the Participant joined with other groups with similar interests to reduce costs?

5. Has the Participant engaged in any conduct that tended to unnecessarily lengthen the duration of the proceeding? (This criterion will not, by itself, disqualify a Participant for pursuing a relevant position in good faith and with reasonable diligence)
6. 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."

2. PROCEEDING AND PREPARATION DAYS

The proceeding consisted of the following:

- A Pre-hearing Conference on December 12, 2007 (9 a.m. to 1 p.m.)
- A Procedural Conference on March 25, 2008 (10 a.m. to 12:15 p.m.)
- Preparation of two rounds of Information Requests
- Review of BCTC and BC Hydro Argument, and Preparation of Argument

Given the focused participation of the applicants for PACA awards and the much broader issues in this proceeding, the Commission Panel has determined, as stated below, that the awards considered in this decision should be limited to 8 proceeding days.

3. PACA APPLICATIONS

Three of thirteen Intervenors submitted PACA budgets and requests for reimbursement. The Commission received PACA applications from the Independent Power Producers Association of British Columbia ("IPPBC"), Kwikwetlem First Nation ("Kwikwetlem"), and the Harris & Casselman party.

4. INDIVIDUAL PACA AWARD AMOUNTS

The Commission Panel has reviewed the PACA applications and determines that the following amounts of cost awards are awarded to participants in the proceeding.

Harris & Casselman

Harris & Casselman is a landowner group with members that will be affected by the construction of the ILM Project and, therefore, has a substantial interest in the ILM Project. However, their issues were narrow and their contribution was minor when considered in the context of the much broader issues in this proceeding.

Their application for a case manager, Bruce Harris, is adjusted to eight proceeding days. The request for foregone earnings for Donald Harris and Alan Casselman is denied because the evidence required by the PACA Guidelines to substantiate a claim for foregone earnings has not been provided, and because of duplication of effort with their case manager, who is being funded. Accordingly, the Harris & Casselman adjusted cost award amount is \$4,200.00 (8 X \$500 X 1.05).

IPPBC

IPPBC represents a substantial interest in this proceeding. However, the Commission Panel finds that IPPBC made a modest contribution to the Commission's understanding of the issues. IPPBC counsel fees are adjusted to eight proceeding days. Further, the Commission Panel has concluded that Mr. Weimer's claim should be adjusted to four days and should be awarded at the case manager rate of \$500 per day. Accordingly, the IPPBC adjusted cost award amount is \$18,228.00 ((8 X \$1,800 X 1.12) + (4 X \$500 X 1.05)).

Kwikwetlem

Kwikwetlem had a substantial interest in a substantial issue in this proceeding arising from its claim to aboriginal rights and interests. Kwikwetlem was represented by counsel at the pre-hearing conferences, and made a significant contribution through pre-hearing submissions to the Commission Panel's understanding of the issues arising from its claim. Following the decision of the Commission Panel regarding the scope of the proceeding and aboriginal rights and interests, the Kwikwetlem participation in the proceeding was limited as reflected in its claim for 3.25 days. Given the use of junior lawyer time, the helpful submissions and the importance of the issues raised, Kwikwetlem is awarded the full amount of its PACA claim.