

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-8-09**

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

and

An Application by FortisBC Inc.
for Approval of 2009-2010 Capital Expenditure Plan
and Review of 2009 System Development Plan Update

BEFORE: A.W.K. Anderson, Panel Chair
and Commissioner
A.A. Rhodes, Commissioner

March 9, 2009

O R D E R

WHEREAS:

- A. By Order G-11-09 dated February 27, 2009, the Commission issued its Decision on the Application by FortisBC Inc. for Approval of 2009-2010 Capital Expenditure Plan and Review of 2009 System Development Plan Update; and
- B. On August 13, 2008, Mr. Alan Wait submitted his application for a Participant Assistance/Cost Award ("PACA") for his participation in the proceeding (the "Proceeding") to review an Application by FortisBC Inc. for Approval of 2009-2010 Capital Expenditure Plan and Review of 2009 System Development Plan Update; and
- C. On October 29, 2008, Ludo Bertsch of Horizon Technologies Inc. submitted an application for a Participant Assistance/Cost Award ("PACA") on behalf of Okanagan Environmental Industry Alliance ("OEIA") for its participation in the proceeding (the "Proceeding") to review an Application by FortisBC Inc. for Approval of 2009-2010 Capital Expenditure Plan and Review of 2009 System Development Plan Update; and
- D. On October 29, 2008, Mr. Norman Gabana submitted his application for a Participant Assistance/Cost Award ("PACA") for his participation in the proceeding (the "Proceeding") to review an Application by FortisBC Inc. for Approval of 2009-2010 Capital Expenditure Plan and Review of 2009 System Development Plan Update; and
- E. On November 24, 2008, Sarah Khan of the BC Public Interest Advocacy Centre submitted an application for a Participant Assistance/Cost Award ("PACA") on behalf of BC Old Age Pensioners' Organization *et al.* ("BCOAPO") for its participation in the proceeding (the "Proceeding") to review an Application by FortisBC Inc. for Approval of 2009-2010 Capital Expenditure Plan and Review of 2009 System Development Plan Update; and
- F. By letter dated December 11, 2008, FortisBC Inc. ("FortisBC") stated that it has no comments regarding BCOAPO's application for funding, but has comments on the application for funding from Okanagan Environmental Industry Alliance, Mr. N. Gabana, and Mr. Wait; and

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- G. The Commission Panel has reviewed the PACA applications, and FortisBC's comments with regard to the criteria and rates set out in the Guidelines in Commission Order G-72-07, and has concluded that, after making changes to the amount of funding requested that are set out in Appendix A to this Order, for the Reasons for Decision that are set out in Appendix B to this Order, the PACA awards should be approved with respect to participation in this proceeding.

NOW THEREFORE the Commission orders as follows:

1. Pursuant to section 118(1) of the Utilities Commission Act, the Commission awards funds to Participants listed for their participation in the proceeding to review the Application by FortisBC Inc. for Approval of 2009-2010 Capital Expenditure Plan and Review of 2009 System Development Plan Update.

Participants	<u>Application</u>	<u>Award</u>
BC Old Age Pensioners' Organization <i>et al.</i> ("BCOAPO")	\$3,536.75	\$3,536.75
Okanagan Environmental Industry Alliance	\$5,453.45	\$3,410.87
Mr. N. Gabana	\$708.20	\$608.20
Mr. A. Wait	<u>\$194.88</u>	<u>\$198.94</u>
TOTAL	<u>\$9,893.28</u>	<u>\$7,754.76</u>

2. FortisBC 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 9th day of March 2009.

BY ORDER

Original signed by:

A.A. Rhodes,
Commissioner

Attachments

Applications for Participant Assistance/Cost Award Funding

Re: An Application by FortisBC Inc.
for Approval of 2009-2010 Capital Expenditure Plan
and Review of 2009 System Development Plan Update

CHANGES TO PARTICIPANT ASSISTANCE/COST AWARD FUNDING

Applicant	Description	Hearing Days	Preparation Days	Rate	Amount	Total
Mr. Alan Wait						
	Mileage			\$0.49	406 km	\$198.94
	Amount					\$198.94

Applicant	Description	Hearing Days	Preparation Days	Rate	Amount	Total
Mr. Norman Gabana	Accommodation including			\$170.20	1	\$ 170.20
	Room tax					
	Mileage			\$0.49	700 km	343.00
	Meals					
	Supper			28.50	1	28.50
	Breakfast & Dinner			36.50	1	36.50
	Breakfast			30.00		30.00
	Earnings (see note below)				1	
	Revised Amount					\$608.20

Note: The Commission Panel may award costs for foregone earnings up to a maximum of \$175 per proceeding day. Participants claiming foregone earnings are required to provide proof of actual foregone earnings, except where to do so would be unreasonably difficult. In this case, an indication of the usual daily earnings must be provided. Where not otherwise provided for in these Guidelines, this provision may also be used to fund the appearance of witnesses who meet the Eligibility Criteria.

Applicant	Description	Hearing Days	Preparation Days	Rate	Amount	Total
Okanagan Environmental Industry Alliance		0.5	4			
	Workshop			\$600.00	0.5	\$ 300.00
	Consultant			\$600.00	4	2,400.00
	GST			5%	\$ 135.00	135.00
	Meals				36.50	36.50
	Taxi				82.00	82.00
	Airfare				264.95	264.95
	Accommodation				30.00	30.00
	Revised Pre-tax Amount					3,248.45
	GST (5%)					162.42
	Revised Amount					\$3,410.87

Applications for Participant Assistance/Cost Award Funding
regarding an Application by FortisBC Inc.
for Approval of 2009-2010 Capital Expenditure Plan
and Review of 2009 System Development Plan Update

REASONS FOR DECISION

1.0 INTRODUCTION

On November 7, 2008 the British Columbia Utilities Commission (the “Commission”) issued Order G-11-09 wherein it approved the 2009-2010 Capital Expenditure Plan, as amended during the course of the proceeding, subject to specific determinations and directions as set out in the Decision issued concurrently with Order G-11-09.

Pursuant to section 118 of the *Utilities Commission Act* the Commission received applications for Participant Assistance/Cost Awards (“PACA”) from BC Old Age Pensioners’ Organization *et al.* (“BCOAPO”) for the amount of \$3,536.75; Okanagan Environmental Industry Alliance for the amount of \$5,453.45; Norman Gabana for the amount of \$708.20; and Alan Wait for the amount of \$194.88 with respect to the FortisBC 009-2010 Capital Expenditure Plan and Review of 2009 System Development Plan Update. The PACA cost awards requested in the applications totaled \$9,893.28

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 determine whether a Participant is eligible or ineligible for an award. In determining an award of all or any portion of a Participant’s costs, the Commission Panel will first consider whether the Participant has a substantial interest in a substantial issue in the proceeding. If this criterion is not met, the Participant will typically not receive a cost award except, possibly, for out-of-pocket disbursements.

Except in limited circumstances, it is expected that only ratepayer groups will establish a “substantial interest in a substantial issue” so as to be eligible for an award in a revenue requirements proceeding. For the purposes of this section, the principal interest of “ratepayer groups” will be the rate impacts of the revenue requirement to be paid by the ratepayer Participants. The Commission Panel will also consider other characteristics of the Participant, including the scope and significance of the principal concerns of the Participant.

Participants other than “ratepayer groups” may be eligible for funding in energy supply contract, rate design, resource plan, and CPCN proceedings provided that the Participant meets the “substantial interest in a substantial issue” criterion.

The Commission Panel will then consider the following:

- (i) 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) 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)
- (vi) 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."

2.0 PROCEEDING AND PREPARATION DAYS

Section 4 of the PACA Guidelines state that the proceeding days may include workshop days, negotiation days, pre-hearing conference days, 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. As the review of the Application involved two rounds of information requests, the Commission staff estimate would have been 4 preparation days for both legal and consultant.

For purposes of determining the cost award, the Commission Panel reviewed the applications and statement of costs.

3.0 PACA APPLICATIONS

3.1 BCOAPO

The Commission Panel has reviewed the BCOAPO PACA Application which is for 1 day of legal expenses at \$1,400 per day, 1.5 days of consultant fees at \$1250 per day, and disbursements of nil for a total of \$3,536.75, including taxes. The maximum daily fees shown are in accordance with those in Order G-72-08. The Budget Estimate for the review of the original Application submitted by BCOAPO was for 1.5 days of legal expenses, 2.25 days of consultant fees plus disbursements for a total of \$5,350.15. FortisBC had no comment regarding BCOAPO's funding application for \$3,536.75.

3.1.1 COMMISSION DETERMINATION

The Commission Panel determines that the total award for BCOAPO is \$3,536.75 (includes taxes).

3.2 OKANAGAN ENVIRONMENTAL INDUSTRY ALLIANCE (“OEIA”)

OEIA is a not-for-profit society to promote the development and growth of residential, commercial and industrial markets for environmental products, services and technologies. It is focused on collaboration and mentoring among its members to enable their business success. OEIA is also a key influencer of policy for the viable development of the industry.

The Budget Estimate for the review of the original Application submitted by OEIA was for 0.5 days of consultant fees and expenses for the workshop, 5 days of consultant fees for preparation work for a total of \$3,700.00. FortisBC made note that the statement of costs reflects 8 days of consulting fees but that the guidelines are not specific with regard to the eligibility of proceeding days in the case of written hearings. The Commission Panel has reviewed the OEIA’s PACA Application and made adjustments to the statement of costs for consulting fees to the normal ratio of two days per proceeding day.

3.2.1 COMMISSION DETERMINATION

The Commission Panel has determined that OEIA is entitled to the normal ratio of two days per proceeding day in its statement of costs for the preparation and submission of questions and that the total award for the OEIA is \$3,410.87 (includes GST at 5%).

3.3 NORMAN GABANA

The Commission Panel has reviewed Norman Gabana’s PACA Application and made adjustments to the statement of costs. FortisBC was uncertain of which criterion under the Guidelines applies to the preparation and submission of questions regarding Norman Gabana’s funding application for \$708.20.

3.3.1 COMMISSION DETERMINATION

The Commission Panel has determined that Norman Gabana involvement was at the Participant level therefore he is not entitled to amount in his statement of costs for the preparation and submission of questions since no proof of foregone earnings was submitted, and that the total award for Norman Gabana is \$608.20.

3.4 ALAN WAIT

The Commission Panel has reviewed Alan Wait’s PACA Application and corrected the mileage rate as pointed out by FortisBC. FortisBC had no additional comments regarding Alan Wait’s funding application for \$194.88.

3.4.1 COMMISSION DETERMINATION

The Commission Panel has determined that Alan Wait’s involvement was at the Participant level and that the total award for Alan Wait is \$198.94.