

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-24-09**

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

and

Application for Participant Assistance/Cost Awards
regarding the British Columbia Transmission Corporation
Application for Approval of its Transmission System
Capital Plan F2010 and F2011

BEFORE:

L.A. O'Hara, Commissioner
and Panel Chair
D.A. Cote, Commissioner

September 11, 2009

O R D E R

WHEREAS:

- A. On May 5, 2009 the British Columbia Public Interest Advocacy Centre submitted an application for a Participant Assistance/Cost Award ("PACA") on behalf of the BC Old Age Pensioners' Organization *et al.* ("BCOAPO") for its participation in the proceeding (the "Proceeding") to review British Columbia Transmission Corporation's ("BCTC") Transmission System Capital Plan F2010 and F2011; and
- B. On May 28, 2009 the Commercial Energy Consumers Association of British Columbia ("CEC") submitted a PACA application for a Cost Award for its participation in the Proceeding to review BCTC's Transmission System Capital Plan F2010 and F2011; and
- C. On May 28, 2009 the Independent Power Producers Association of BC ("IPPBC") submitted a PACA application for a Cost Award for its participation in the Proceeding to review BCTC's Transmission System Capital Plan F2010 and F2011; and

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- D. On July 29, 2009 the Joint Industry Electricity Steering Committee (“JIESC”) submitted a PACA application for a Cost Award for its participation in the Proceeding to review BCTC’s Transmission System Capital Plan F2010 and F2011; and
- E. By Order G-87-09 dated July 13, 2009, the British Columbia Utilities Commission (“Commission”) issued its Decision on BCTC’s Transmission System Capital Plan F2010 and F2011 Application; and
- F. By letter dated August 14, 2009, BCTC stated that the amounts requested by BCOAPO, CEC, JIESC and IPPBC to be substantially consistent with the PACA Guidelines of allowable costs and that the participation of these Intervenor resulted in a better understanding of the Application; and
- G. The Commission Panel has reviewed the PACA applications and comments from BCTC with regard to the criteria and rates set out in the PACA Guidelines in Commission Order G-72-07 and has concluded, after making certain changes to the amounts of funding requested, the PACA awards should be approved for participants in the proceeding for the Reasons that are set out in Appendix A to this Order.

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 proceeding that reviewed BCTC’s Transmission System Capital Plan F2010 and F2011.

Participant	Application	Award
British Columbia Old Age Pensioners' Organization, et al.	\$ 8,715.00	\$ 8,715.00
Commercial Energy Consumers Association of British Columbia	\$ 17,843.65	\$11,017.34
Independent Power Producers of British Columbia	\$ 19,971.00	\$9,985.50
Joint Industry Electricity Steering Committee	\$ 8,366.89	\$ 8,366.89
TOTAL Award	\$54,896.54	\$38,084.73

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2. BCTC is directed to reimburse the above noted participants by way of cheque for the total amounts awarded in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 11th day of August 2009.

BY ORDER

Original signed by:

L.A. O'Hara
Commissioner and Panel Chair

Attachment

An Application by British Columbia Transmission Corporation
for Approval of its Transmission System
Capital Plan F2010 and F2011

Applications for Participant Assistance/Cost Award Funding

REASONS FOR DECISION

1.0 INTRODUCTION

On July 13, 2009 the British Columbia Utilities Commission (the “Commission”) issued Order C-87-09 accepting an application by the British Columbia Transmission Corporation (“BCTC”) for approval of its Transmission System Capital Plan F2010 and F2011 (“Application”).

Pursuant to section 118 of the *Utilities Commission Act* (the “Act”) the Commission received applications for Participant Assistance/Cost Awards (“PACA”) from the following Intervenor for participation in the review of the Application:

Participant	Date Application for PACA Funding Received	Cost Award Requested
BC Old Age Pensioners’ Organization <i>et al</i> (“BCOAPO”)	May 5, 2009	\$8,715.00
Commercial Energy Consumers Association of British Columbia (“CEC”)	May 28, 2009	\$17,843.65
Independent Power Producers association of BC (“IPPBC”)	May 28, 2009	\$19,971.00
Joint Industry Electricity Steering Committee (“JIESC”)	July 29, 2009	\$8,366.89

On August 14, 2009 the Commission received a letter from BCTC stating that the amounts requested by these Intervenor are substantially consistent with the PACA Guidelines of allowable costs and that the participation of these Intervenor resulted in a better understanding of the Application.

Section 118 of the Act 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, 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. As the review of the Application involved one workshop day, and three rounds of information requests, the Commission estimate was six preparation days for legal counsel and consultants.

3.0 PACA APPLICATIONS

The Commission Panel accepts BCOAPO, CEC, and JIESC as eligible ratepayer groups as defined in the Commission's PACA Guidelines. The Commission Panel does not accept IPPBC as an eligible ratepayer group as defined in the Commission's PACA Guideline but accepts that IPPBC may still be eligible for PACA funding to the extent it demonstrates "a substantial interest in a substantial issue" in this resource plan review. Each PACA applicant must demonstrate that it contributed to a better understanding of the issues by the Commission and that its costs are fair and reasonable.

The Commission Panel now reviews and, where necessary, adjusts the PACA application amounts as follows:

3.1 BCOAPO

The Commission Panel has reviewed the BCOAPO PACA Application which is for two and one-half days of legal expenses at \$1,800 per day, and two and eight-tenths days of consultant fees at \$1,250 per day. The maximum daily fees shown are in accordance with those in Order G-72-08.

COMMISSION DETERMINATION

The Commission Panel finds that BCOAPO contributed to a better understanding of the issues, and determines that the total award for BCOAPO is \$8,715 including PST (legal services only) and GST.

3.2 JIESC

The Commission Panel has reviewed the JIESC PACA Application which is for 0.563 days of legal expenses at \$1,800 per day, and 5.31 days of consultant fees at \$1,250 per day. The maximum daily fees shown are in accordance with those in Order G-72-08.

COMMISSION DETERMINATION

The Commission Panel finds that JIESC contributed to a better understanding of the issues, and determines that the total award for JIESC is \$8,366.89 including PST (legal services only) and GST.

3.3 CEC

The Commission Panel has reviewed the CEC PACA Application which is for 5.4 days of legal expenses at \$1,800 per day, and 5.4 days of consultant fees at \$1,250 per day. The maximum daily fees shown are in accordance with those in Order G-72-08. Commission Panel observes that a significant portion of the cost relates to the time spent by legal counsel. As this was a written process rather than an oral hearing, Commission Panel believes that the time requested for legal counsel should be reduced. Furthermore, Commission Panel notes that CEC did not participate in Information Request Round No. 2 or Information Request Round No. 3; therefore the Commission Panel also notes that the cost incurred by the Participant for the purposes of participating in the proceeding should be fair and reasonable in relation to the amount of value contributed.

The Commission Panel concludes that the extent to which the CEC contributed to a better understanding of the issues is consistent with its level of involvement in the proceeding and determines that it is fair and reasonable that the award amount should be reduced by two days for both counsel and consultant.

	Staff Estimate		PACA Application		PACA Award	
	Days	Rate per Day	Days	Rate per Day	Days	Rate per Day
Counsel	6	\$1800	5.31	\$1800	3.31	\$1800
Consultant	6	\$1250	5.31	\$1250	3.31	\$1250

The Commission Panel recalculates the PACA Award amount as follows:

CEC	Days	Rate per Day	Total	GST @ 5%	PST @ 7%	Total2
Counsel	3.31	\$1,800	\$5,958.00	\$ 297.90	\$ 417.06	\$ 6,672.96
Consultant	3.31	\$1,250	\$4,137.50	\$ 206.88	\$ -	\$ 4,344.38
Total						\$ 11,017.34

COMMISSION DETERMINATION

The Commission Panel determines that the total award for CEC is \$11,017.34 including PST (legal services only) and GST.

3.4 IPPBC

The Commission Panel has reviewed the IPPBC PACA Application which is for 6 days of legal expenses at \$1,800 per day, and 6 days of consultant fees at \$1,250 per day. The maximum daily fees shown are in accordance with those in Order G-72-08.

The Commission Panel notes that the PACA Application is approximately two and one-quarter times higher than some other PACA Applications. Furthermore, Commission Panel also notes that the time spent by the consultant and counsel are identical and the maximum amount as per the staff estimate. The Commission Panel observes that significant portion of the cost relates to the time spent by legal counsel. As this was a written process rather than an oral hearing, Commission Panel believes that the time requested for legal counsel should be reduced. For the purpose of this written process, the Commission Panel accepts that Mr. Weimer has been identified as a consultant rather than a case manager.

The Commission Panel reviewed the proceeding documents and has determined IPPBC information requests generally focused on capacity issues dealing with the integration of wind generation with transmission and the transmission expansion policy. The Commission Panel accepts this is a substantial issue, but found that this narrow scope of the IPPBC was not particularly helpful in obtaining a better understanding of the broader scope of issues.

The relatively narrow scope of the IPPBC's involvement in the proceeding limited the extent to which it contributed to a better understanding of the issues. Considering this and the need for costs to be fair and reasonable, the Commission Panel reduces the amount of its application to 3 days for each of counsel and consultant.

	Staff Estimate		PACA Application		PACA Award	
IPPBC	Days	Rate per Day	Days	Rate per Day	Days	Rate per Day
Counsel	6	\$1800	6	\$1800	3.00	\$1800
Consultant	6	\$1250	6	\$1250	3.00	\$1250

The Commission Panel recalculates the PACA Award amount as follows:

IPPBC	Days	Rate per Day	Total	GST @ 5%	PST @ 7%	Total2
Counsel	3	\$1,800	\$5,400.00	\$270.00	\$378.00	\$6,048.00
Consultant	3	\$1,250	\$3,750.00	\$187.50	\$ -	\$3,937.50
Total						\$9,985.50

COMMISSION DETERMINATION

The Commission Panel determines that the total award for IPPBC is \$9,985.50 including PST (legal services only) and GST.

4.0 COMMISSION DETERMINATION

The Commission Panel determines that the total award for this proceeding is as follows:

Participant	Award
British Columbia Old Age Pensioners' Organization, et al	\$ 8,715.00
Commercial Energy Consumers Association of British Columbia ("CEC")	\$11,017.34
Independent Power Producers of British Columbia ("IPPBC")	\$9,985.50
Joint Industry Electricity Steering Committee ("JIESC")	\$ 8,366.89
TOTAL Award	\$38,084.73