

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-25-09**

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

and

**An Application by British Columbia Hydro and Power Authority
Toad River Electrification Project Application**

BEFORE: A.J. Pullman, Panel Chair and Commissioner November 12, 2009
A.A. Rhodes, Commissioner

O R D E R

WHEREAS:

- A. British Columbia Hydro and Power Authority ("BC Hydro") applied to the British Columbia Utilities Commission (the "Commission") for a Certificate of Public Convenience and Necessity ("CPCN") to supply electricity to the community of Toad River under its Remote Community Electrification ("RCE") Program (the "Application") on June 19, 2009 pursuant to sections 45, 46 and 61 of the *Utilities Commission Act* (the "Act"); and
- B. Toad River is a new service area that will not be interconnected to the existing BC Hydro electrical system and is the first community to receive electricity under the RCE; and
- C. In the Application, BC Hydro seeks orders which grant a CPCN to serve the community of Toad River and for electricity tariff amendments to have Toad River listed as a Rate Zone II community; and
- D. BC Hydro states that the Application for the community of Toad River is consistent with the 2007 Energy Plan, Electricity Policy Actions No. 27 and No. 28, and BC Hydro's RCE 20-year Program Plan; and
- E. As required by the CPCN Application Guidelines and Letter L-18-04, Appendix P of the Application includes the additional requirements for a New Service Area; and
- F. On June 25, 2009 the Commission issued a letter to BC Hydro stating that it was considering proceeding with the Application on its own motion without further process, requesting comments from the BC Hydro F2009/F2010 Revenue Requirements Application Intervenors by July 10, 2009, and the provision of an evidentiary update on the Liard First Nation issues by July 31, 2009; and

- G. The British Columbia Old Age Pensioners Organization *et al.* (“BCOAPO”), B.C. Sustainable Energy Association *et al.* (“BCSEA”), Commercial Energy Consumers Association of British Columbia (“CEC”) and the Joint Industry Electricity Steering Committee (“JIESC”) filed comments on the regulatory process proposed by the Commission and the process for streamlining future RCE applications and, on July 17, 2009, BC Hydro filed its reply to the comments; and
- H. On July 23, 2009 the Commission issued Letter L-53-09 supporting a workshop to be held on August 14, 2009 on the RCE program and the Toad River Electrification Project (the “Project”) and requesting that parties file information requests with regard to the RCE program and the Project by Friday, July 31, 2009 and that BC Hydro provide a response to the information requests by August 11, 2009; and
- I. BCOAPO, BCSEA and CEC provided information requests to BC Hydro and BC Hydro responded to all of the information requests on August 12, 2009; and
- J. On August 14, 2009 BC Hydro held a workshop in Vancouver and on August 21, 2009, provided a list of attendees and a summary of comments at the workshop on the RCE program and the streamlining of the regulatory process for the RCE program; and
- K. In accordance with the Commission’s letter dated July 23, 2009, BCOAPO”, BCSEA and CEC provided final written comments in respect of the Application on August 21, 2009; and
- L. On September 15, 2009 the Commission issued Order C-4-09 granting a CPCN to BC Hydro for a diesel generation plant to serve Toad River as set out in the Application and approving its agreement to take ownership of the distribution system in Toad River currently owned by the Northern Rockies Regional Municipality; and
- M. By letter dated September 30, 2009, BC Hydro advised the Commission that it had reviewed the BCOAPO cost award application and leaves it to the Commission’s discretion as to the level of the cost award to be made; and
- N. By letter dated November 9, 2009, BC Hydro advised the Commission that it had reviewed the BCSEA cost award application and does not object to the participant assistance request made by BCSEA; and leaves it to the Commission’s discretion as to the level of the cost award to be made; and
- O. The Commission has reviewed the applications for cost awards with regard to the criteria and rates set out in Order G-72-07.

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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 the BC Hydro's Application for the Toad River Project.

Participant	Application	Award
British Columbia Old Age Pensioners' Organization, et al.	\$4,328.62	\$4,328.62
BC Sustainable Energy Association and Sierra Club of British Columbia	\$ 6,846.42	\$4,348.31
TOTAL Award	\$11,175.04	\$8,676.93

2. BC Hydro 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 day of November 2009.

BY ORDER

Original signed by:

A.J. Pullman
Panel Chair and Commissioner

An Application by British Columbia Hydro and Power Authority
Toad River Electrification Project Application

Applications for Participant Assistance/Cost Award Funding

REASONS FOR DECISION

1.0 INTRODUCTION

On September 15, 2009, the British Columbia Utilities Commission (the “Commission”) issued Order C-4-09 granting British Columbia Hydro and Power Authority’s (“BC Hydro’s”) application for a Certificate of Public Convenience and Necessity for its Toad River Electrification Project (“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 Intervenors 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”)	September 1, 2009	\$4,328.62
BC Sustainable Energy Association and Sierra Club of British Columbia	September 28, 2009	\$6,846.42

On September 30, 2009 and November 9, 2009, the Commission received letters from BC Hydro stating that the amounts requested by these Intervenors are to be determined by the Commission.

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

3.0 PACA APPLICATIONS

The Commission Panel accepts BCOAPO as an eligible ratepayer group as defined in the Commission's PACA Guidelines.

For the Application, the Commission Panel does not accept BCSEA as an eligible ratepayer group as defined in the Commission's PACA Guideline but accepts that BCSEA 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 days of legal expenses at \$1,200 per day, and one and one-quarter days of consultant fees at \$1,250 per day. The maximum daily fees shown are in accordance with those in Order G-72-07.

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 \$4,328.62 including PST (legal services only) and GST.

3.2 BCSEA

The Commission Panel has reviewed the BCSEA PACA Application which is for 2.7 days of legal expenses at \$1,800 per day, 0.625 days of consultant fees at \$1,250 per day and 0.75 of a day of case managers fee at \$500 per day. The maximum daily fees shown are in accordance with those in Order G-72-07.

The Commission Panel notes that the PACA Application is approximately 1.6 times higher than the other PACA Application. Furthermore, the Commission Panel observes that significant portion of the cost relates to the time spent by legal counsel and a case manager. As this was a short written process rather than an oral hearing, Commission Panel believes that the time requested for legal counsel and the case manager should be reduced.

The Commission Panel reviewed the proceeding documents and has determined BCSEA information requests generally focused on issues dealing with the use of diesel generation versus the use of renewable resources. The Commission Panel accepts this was an issue, but found that the issue was of narrow scope and properly addressed in the Application such that BCSEA's involvement did not contribute significantly to a better understanding of the broader scope of issues.

The relatively narrow scope of the BCSEA'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 1.75 days for counsel and zero days for case manager. The Commission Panel therefore also disallows the \$207.91 airfare expense claimed by the case manager.

The Commission Panel recalculates the PACA Award amount as follows:

BCSEA	Days	Rate per Day	Total	GST @ 5%	PST @ 7%	Total 2
Counsel	1.75	\$1,800	\$3,150.00	\$157.50	\$220.50	\$3,528.00
Consultant	0.625	\$1,250	\$781.25	\$39.06		\$820.31
Case Manager	0	\$500	\$0.00			\$0.00
Total			\$3,931.25			\$4,348.31

Commission Determination

The Commission Panel determines that the total award for BCSEA, *et al* is \$4,348.31 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	\$4,328.62
BC Sustainable Energy Association and Sierra Club of British Columbia	\$4,348.31
TOTAL Award	\$8,676.93