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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-13-10**

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

and

An Application for Participant Assistance/Cost Awards
regarding the British Columbia Hydro and Power Authority
Application for Gordon M. Shrum Units 1 to 5
Turbine Replacement Project

BEFORE: A.J. Pullman, Commissioner

April 12, 2010

O R D E R

WHEREAS:

- A. On December 11, 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 (Proceeding) to the review British Columbia Hydro and Power Authority (BC Hydro) Application for Gordon M. Shrum Units 1 to 5 Turbine Replacement Project; and
- B. On January 20, 2010 the Commercial Energy Consumers Association of British Columbia (CEC) submitted a PACA application for a Cost Award for its participation in the Proceeding; and
- C. On January 5, 2010 the Independent Power Producers Association of BC (IPPBC) submitted a PACA application for a Cost Award for its participation in the Proceeding; and
- D. On September 11, 2009 the Joint Industry Electricity Steering Committee (JIESC) advised the British Columbia Utilities Commission (Commission) that it would not be submitting a PACA application for a Cost Award for its participation in the Proceeding; and
- E. By Order G-1-10 dated January 5, 2010, the Commission issued its Decision on BC Hydro's Application for Gordon M. Shrum Units 1 to 5 Turbine Replacement Project; and
- F. By letter dated March 16, 2010, BC Hydro stated that the time allotments and charge rates used in the cost award applications appear reasonable; and
- G. Commission Order G-72-07 established Guidelines for PACA applications. Section 1 of the PACA Guidelines regarding Participant Eligibility is attached as Appendix B to this Order; and
- H. The Commission Panel has reviewed the PACA applications and comments from BC Hydro 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

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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 the British Columbia Hydro and Power Authority Application for Gordon M. Shrum Units 1 to 5 Turbine Replacement Project.

Participant	Award
British Columbia Old Age Pensioners' Organization <i>et al.</i>	\$ 6,615.00
Commercial Energy Consumers Association of British Columbia	\$ 6,431.88
Independent Power Producers Association of British Columbia	\$ 3,328.50
TOTAL Award	\$16,375.38

2. BC Hydro 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 12th day of April 2010.

BY ORDER

Original signed by:

A.J. Pullman
Commissioner

Attachments



IN THE MATTER OF

APPLICATIONS FOR PARTICIPANT ASSISTANCE/COST AWARD

REGARDING THE APPLICATION BY
BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
FOR APPROVAL OF ITS GORDON M. SHRUM UNITS 1 TO 5
TURBINE REPLACEMENT PROJECT

REASONS FOR DECISION

April 12, 2010

BEFORE:

A.J. Pullman, Commissioner

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1.0 INTRODUCTION

On January 5, 2010 the British Columbia Utilities Commission (the Commission) issued Order G-1-10 accepting an application by the British Columbia Hydro and Power Authority (BC Hydro) for approval of its Gordon M. Shrum Units 1 to 5 Turbine Replacement Project (Application, the Project).

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

Participant	Date Application for PACA Funding Received	Cost Award Requested
British Columbia Old Age Pensioners' Organization <i>et al.</i>	December 11, 2009	\$6,615.00
Commercial Energy Consumers Association of British Columbia	January 20, 2010	\$14,700.00
Independent Power Producers Association of British Columbia	January 5, 2010	\$6,961.50

On March 16, 2010 the Commission received a letter from BC Hydro stating the British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO), the Commercial Energy Consumers Association of British Columbia (CECBC) and the Independent Power Producers Association of British Columbia (IPPBC) contributed to a greater understanding of the impact of operating restrictions currently in place to manage the risk of an unplanned outage and also explored the valuing of costs and benefits attributable to the Project; and BCOAPO and CECBC contributed to a greater understanding of certain key issues; including the costs and benefits associated with adding synchronous condense capability and the overall value of the Project from an improved reliability and improved incremental energy perspective; and CECBC also explored a number of inputs and factors contributing to Project costs. BC Hydro states the time allotments and charge rates used in the cost award applications appear reasonable and [BC Hydro] leaves it to the discretion of the Commission as to the level of cost awards to be made.

As set out in the Order that accompanies these Reasons for Decision, the Commission received these PACA applications pursuant to section 118 of the *Utilities Commission Act* (the Act), which provides that the Commission Panel may make cost awards for participants in a proceeding. The Commission's PACA Guidelines are set out in Appendix A to Order G-72-07, and Section 1 of the Guidelines dealing with Participant Eligibility is attached as Appendix B to this Order.

The PACA Guidelines expect that, except in limited circumstances, only ratepayer groups will establish a "substantial interest in a substantial issue" in a revenue requirements proceeding, and so be eligible for PACA funding. Participants other than ratepayer groups may be eligible for PACA funding in other proceedings, providing they meet the substantial

interest in a substantial issue criterion. 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.

In some circumstances, an individual Participant that does not qualify for an award pursuant to the Participant Eligibility criteria as set forth in Section 1, may be reimbursed for disbursements to travel to a proceeding that is more than 100 km from the Participant's residence.

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 partial days. As the review of the Application involved a workshop (1-¼ hr), and one round of Intervener information requests, the Commission estimate for the maximum eligible days for funding purposes may range up to 4 days for legal counsel and consultants.

As this proceeding was a written proceeding, the preceding PACA Guidelines do not necessarily apply as these PACA Guidelines generally apply to oral hearings.

Commission Determination

The Commission Panel's view is that this Application is a replacement of existing generation that has reached the end of its useful life and therefore the review of the Application is very straightforward and non-controversial in nature; the time required by the workshop, the information request and the final submission was minimal. The Commission Panel concludes that the staff estimate of the amount of effort required to fully participate in the proceeding was reasonable, and determines that up to four days of each of legal counsel and consultant time will be eligible for funding.

3.0 PACA APPLICATIONS

The Commission Panel accepts BCOAPO and CECBC as eligible ratepayer groups as defined in the Commission's PACA Guidelines. The Commission Panel notes that the Joint Industry Electricity Steering Committee (JIESC), an eligible ratepayer group, did not file a budget or a request for cost award as it claimed the time and cost involved preparing the budget and award would exceed the costs incurred by the JIESC.

The Commission Panel does not accept IPPBC as an eligible ratepayer group as defined in the Commission's PACA Guidelines 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 Proceeding.

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 one and two-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. BC Hydro stated "BCOAPO and CECBC contributed to a greater understanding of certain key issues ..."

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 \$6,615 including PST (legal services only) and GST.

3.2 CEC

The Commission Panel has reviewed the CEC PACA Application which is for 1.68 days of legal expenses at \$1,800 per day, and 4.75 days of consultant fees at \$1,250 per day. The maximum daily fees shown are in accordance with those in Order G-72-08. Furthermore, the Commission Panel notes BC Hydro's statement that CECBC contributed to a greater understanding of certain key issues; including the cost and benefits associated with adding synchronous condense capability and the overall value of the Project from an improved reliability and improved incremental energy perspective and CECBC explored a number of inputs and factors contributing to Project costs.

Even though CECBC contributed to a greater understanding of certain key issues, the Commission Panel determines the amount of time exceeds the eligible days that are eligible for funding. The Commission Panel concludes that the amount of funding for CECBC should be reduced to comply with the determination on the eligible days for funding and determines the award amount for the consultant should be reduced to 2.32 days.

The Commission Panel recalculates the PACA Award amount as follows:

CEC	Days	Rate per Day	Sub-total	GST @ 5%	PST @ 7%	Total
Counsel	1.68	\$1,800	\$3,024.00	\$151.20	\$211.68	\$3,386.88
Consultant	2.32	\$1,250	\$2,900.00	\$145.00	-	\$3,045.00
Total	4					\$6,431.88

Commission Determination

The Commission Panel determines that the total award for CEC is \$6,431.88 including PST (legal services only) and GST.

3.3 IPPBC

The Commission Panel has reviewed the IPPBC PACA Application which is for 1.5 days of legal expenses at \$1,800 per day, and 3 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 staff reviewed the interests of the IPPBC in the proceeding and the issues it intended to pursue, and considered that IPPBC did not have a substantial interest in the proceeding. Commission staff's view is that this is a replacement of existing generation and therefore not particularly of interest to IPPBC; the impact on water rentals is a moot issue to the ratepayer groups in this instance, the reliability of the system will be unchanged, and the determination of best value for the money is best left to the eligible ratepayer groups. Commission staff, in its letter to IPPBC, stated that it believed that the participation of the IPPBC in the proceeding would not be supported by a cost award.

Even though BC Hydro noted that BCOAPO, the CECBC and IPPBC contributed to a greater understanding of the impact of operating restrictions currently in place to manage the risk of an unplanned outage and also explored the valuing of costs and benefits attributable to the Project, it did not include IPPBC in contributing to a greater understanding of certain key issues; including the cost and benefits associated with adding synchronous condense capability and the overall value of the project from an improved reliability and improved incremental energy perspective or exploring a number of inputs and factors contributing to Project costs.

Also, in Reply Argument, BC Hydro noted IPPBC's attempt to introduce such new evidence on the cost of incremental firm transmission, network upgrades, and Incremental Energy in the Proceeding, but did not oppose the Application. The topics pursued by IPPBC in a two page information request were capital investments in Gordon M. Shrum, removal of operating restrictions, value of incremental energy gains, capital overhead charges, and general impact of the Gordon M. Shrum turbine replacement on renewable energy resources.

The Commission Panel noted that staff's view of this Project as a replacement of existing generation and therefore not particularly of interest to IPPBC; the impact on water rentals is a moot issue to the ratepayer groups in this instance, the reliability of the system will be unchanged, and the determination of best value for the money is best left to the eligible ratepayer groups. Whether the proposed upgrade might be altered by any of the conclusions that could arise from the ongoing Section 5 Inquiry, these can be addressed in the ongoing Section 5 Inquiry. Also, the Commission Panel noted that staff believed participation of the IPPBC in the Proceeding would not be supported by a cost award.

The Commission Panel reviewed the proceeding documents and has determined IPPBC does not have a substantial financial interest in ensuring that BC Hydro's electricity rates are as cost-effective as possible as IPPBC is not an eligible ratepayer group. The IPPBC also does not have a substantial interest in ensuring that BC Hydro's system is maintained at a high level of reliability of the Project as this is outside its interest in interconnectivity, but does have an interest, although not substantial and not applicable in this instance, in ensuring that the government's Energy Plan objectives for the integration of new renewable energy resources are met in a timely and cost-efficient manner; even though IPPBC has a substantial interest in ensuring that the choices made with respect to energy acquisition alternatives are properly informed by consistent and comparable economic evaluations, it does not apply as this is a replacement project. The Commission Panel accepts these may be a substantial issue to IPPBC, but found that this narrow scope of the IPPBC was not particularly helpful in obtaining a better understanding of the broader scope of issues considering the Commission Panel identifies this as a maintenance replacement project.

Considering 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, the Commission Panel reduces the amount of its PACA application to 1 day for counsel and 1 day for consultant.

The Commission Panel recalculates the PACA Award amount as follows:

IPPBC	Days	Rate per Day	Sub-total	GST @ 5%	PST @ 7%	Total
Counsel	1	\$1,800	\$1,800.00	\$90.00	\$126.00	\$2,016.00
Consultant	1	\$1,250	\$1,250.00	\$62.50	\$ -	\$1,312.50
Total	2					\$3,328.50

Commission Determination

The Commission Panel determines that the total award for IPPBC is \$3,328.50 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 <i>et al.</i>	\$6,615.00
Commercial Energy Consumers Association of British Columbia	\$6,431.88
Independent Power Producers Association of British Columbia	\$3,328.50
TOTAL Award	\$16,375.38

Section 1 of Participant Assistance/Cost Award Guidelines

Section 1, Participant Eligibility

The Commission Panel in a proceeding may award costs for participation, pursuant to these Guidelines, under section 118 of the Act. The Commission Panel may establish a maximum aggregate award amount (funding cap) for a proceeding.

A Participant is an individual or an organization, which actively participates in a proceeding of the Commission.

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 requirements 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.