



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-13-13**

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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 a Certificate of Public Convenience and Necessity
for the Purchase of the Utility Assets of the City of Kelowna

BEFORE: D.M. Morton, Commissioner/Panel Chair
A.A. Rhodes, Commissioner May 14, 2013
B.A. Magnan, Commissioner

O R D E R

WHEREAS:

- A. On November 13, 2012, FortisBC Inc. (FortisBC) filed an application with the British Columbia Utilities Commission (Commission) pursuant to sections 45 and 46 of the *Utilities Commission Act (Act)* for a Certificate of Public Convenience and Necessity (CPCN) for an extension of its distribution system resulting from its purchase of the electricity distribution assets of the City of Kelowna (Transaction), and further sought an order pursuant to sections 59 and 60 of the *Act* to include the impact of the Transaction in its revenue requirements (Application);
- B. Pursuant to Order G-5-13, the Application was reviewed through a three-day oral public hearing process with oral submissions;
- C. By Order C-4-13 dated March 1, 2013, and the subsequent Reasons for Decision issued on March 26, 2013, the Commission approved the Application subject to certain conditions;
- D. Between March 14, 2013 and March 21, 2013, the following Interveners filed applications for Participant Assistance/Cost Award (PACA) funding:
 - British Columbia Pensioners' and Seniors' Organization, *et al.* (BCPSO);
 - British Columbia Sustainable Energy Association and the Sierra Club of British Columbia (BCSEA);
 - Industrial Customers Group (ICG);
- E. On April 16, 2013, FortisBC provided comments on each of the PACA applications;

BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER F-13-13

2

- F. The Commission reviewed the PACA applications with regard to the criteria and rates set out in the PACA Guidelines in Commission Order G-72-07, and has concluded that cost awards are approved for Participants in the proceeding, as set out in the Reasons for Decision that are attached as Appendix A to this Order.

NOW THEREFORE the Commission orders as follows:

1. Pursuant to section 118(1) of the *Act*, the Commission awards funds in the following amounts to the Interveners for their participation in the proceeding. Reasons for awards are provided in Appendix A to this Order.

Intervener	Budget Estimate	Final Application	Participant Assistance Cost Award	Award as % of Final Application
BCPSO	\$19,244.00	\$20,678.52	\$20,678.52	100%
ICG	\$34,100.00	\$36,164.40	\$36,164.40	100%
BCSEA	\$15,482.00	\$7,102.20	\$7,102.20	100%

2. FortisBC must reimburse Interveners for the amounts awarded in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 15th day of May, 2013.

BY ORDER

Original signed by:

D.M. Morton
Commissioner

Attachment

**Applications for Participant Assistance/Cost Awards
for the FortisBC Inc. Application for a Certificate of Public Convenience and Necessity
for the Purchase of the Utility Assets of the City of Kelowna**

REASONS FOR DECISION

1.0 INTRODUCTION AND BACKGROUND

By Order C-4-13 dated March 1, 2013, and the subsequent Reasons for Decision issued on March 26, 2013, the British Columbia Utilities Commission (Commission) approved FortisBC Inc.'s (FortisBC) Application for a Certificate of Public Convenience and Necessity for the Purchase of the Utility Assets of the City of Kelowna (Application) subject to certain conditions.

The Regulatory Timetable for reviewing the Application included:

- two rounds of Information Requests from the Commission and Interveners;
- a Procedural Conference;
- a three-day Oral Hearing held in Vancouver which included Oral Final and Reply Arguments.

The Commission received three applications from Interveners pursuant to section 118 of the *Utilities Commission Act* for Participant Assistance/Cost Award (PACA) funding totaling \$63,945.12.

The Commission PACA Guidelines are set out in Appendix A to Order G-72-07, and state that the Commission Panel will first consider whether the Participant has a substantial interest in the proceeding. 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 appropriate, the Commission Panel may consider the Participant's ability to participate in the proceeding without an award.

2.0 PROCEEDING AND PREPARATION DAYS

As outlined in Section 4 of the PACA Guidelines, the term proceeding day encompasses the following: workshop days, negotiation days, pre-hearing conference days, hearing days and oral argument days. In addition, the Commission Panel may award costs for preparation days which is typically on a ratio of up to two days per proceeding day. The PACA Guidelines allow for an adjustment to this ratio where there has been adequate justification from Participants.

The Commission Panel has determined that the number of proceeding days in the Application is 4, which would normally result in an allowable preparation time of 8 days.

3.0 PACA APPLICATIONS

The Commission received three PACA applications summarized in the table below:

Participant	Application
British Columbia Pensioners' and Seniors' Organization <i>et al.</i> (BCPSO)	\$20,678.52
British Columbia Sustainable Energy Association <i>et al.</i> (BCSEA)	\$7,102.20
Industrial Customers Group (ICG)	\$36,164.40
TOTAL	\$63,945.12

FortisBC was asked to comment on each of the PACA applications. FortisBC provided comments in its April 16, 2013 letter.

4.0 AWARDS OF INDIVIDUAL PACA APPLICATION AMOUNTS

The Commission Panel has reviewed all three PACA applications, has considered the comments of FortisBC, and makes the following determinations with respect to cost awards:

BCPSO

BCPSO claims for costs total \$20,678.52 (including HST). FortisBC expressed no concern with the claims submitted by BCPSO. However, the Commission Panel considers BCPSO as having a substantial interest and a broad scope with respect to substantial issues in the proceeding and notes that it participated fully.

Accordingly, the BCPSO claim for a cost of award of \$20,678.52 is granted.

BCSEA

BCSEA claims for costs total \$7,102.20 (including HST). FortisBC expressed no concern with the claims submitted by BCSEA. The Panel views the BCSEA's limited participation in the proceeding as reflective of its interest in the proceeding, is satisfied that it made a good contribution and that the amount of time claimed for, is consistent with PACA Guidelines and not unreasonable. **Accordingly, the BCSEA claim for a cost award of \$7,102.20 is granted.**

ICG

ICG claims costs which total \$36,164.40 (including HST). These costs represent costs for legal counsel of \$24,192.00 and costs for an expert witness of \$11,972.40. FortisBC raised issue with respect to ICG's entitlement to PACA funding generally and for its expert witness under Commission Guidelines. FortisBC submitted that the Direct Evidence of the Expert Witness did not contribute to a better understanding of the issues by the Commission, due to the Expert Witness's lack of current knowledge of FortisBC's Commission approved policies and the lack of facts and evidence brought forth by the Expert Witness.

ICG's participation in the proceeding did contribute to the Commission's better understanding of the issues. The expert evidence provided was of considerable assistance in a general sense, and the discrete areas where the Expert Witness agreed his knowledge was not current did not detract from this assistance. The Panel also finds that the costs incurred by ICG are fair, reasonable and in accordance with the guidelines. **Accordingly, the ICG claim for a cost award of \$36,164.40 is granted.**