



**ORDER NUMBER
F-2-16**

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

Creative Energy Vancouver Platforms Inc.
Application for a Certificate of Public Convenience and Necessity
for a Low Carbon Neighbourhood Energy System
for Northeast False Creek and Chinatown Neighbourhoods of Vancouver
Applications for Participant Assistance/Cost Awards

BEFORE:

D. M. Morton, Panel Chair/Commissioner
I. F. MacPhail, Commissioner

on February 5, 2016

ORDER

WHEREAS:

- A. On April 17, 2015, Creative Energy Vancouver Platforms Inc. (Creative Energy) applied to the British Columbia Utilities Commission (Commission) for an order approving a new Neighbourhood Energy Agreement (NEA) between Creative Energy and the City of Vancouver (CoV) under section 45(7) and granting a Certificate of Public Convenience and Necessity (CPCN) under section 45(9) of the *Utilities Commission Act* (UCA) to construct and operate a new Neighbourhood Energy System (NES) to serve new developments in the Northeast False Creek (NEFC) and Chinatown neighbourhoods of the CoV (Application);
- B. The following parties registered as interveners in this proceeding:

City of Vancouver	FortisBC Energy Inc.
Commercial Energy Consumers Association of BC (CEC)	Urban Development Institute
British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Disability Alliance BC, Council of Senior Citizens' Organizations of BC and the Tenant Resource and Advisory Centre (BCOAPO <i>et al.</i>)	Corix Utilities Inc.
FortisBC Alternative Energy Services Inc.	Onni Hastings Holdings Corp. and the Onni Group
Hollyburn Properties Limited	GeoExchange BC
LandlordBC	Energy Canvas Limited

- C. On May 8, 2015, by Order G-75-15, the Commission set out a preliminary Regulatory Timetable which included one round of information requests and sought comments on the Streamlined Review Process. BCOAPO *et al.* and CEC submitted initial Participant Assistance/Cost Award (PACA) budgets on May 22, 2015;
- D. On June 1, 2015, by Order G-95-15, the Commission amended the Regulatory Timetable to include a Procedural Conference. On July 10, 2015, the Commission held a Procedural Conference and on July 13, 2015, by Order G-118-15, the Commission set out the remainder of the Regulatory Timetable. BCOAPO *et al.* and CEC submitted revised budgets on July 20, 2015 and July 21, 2015, respectively. No other interveners submitted PACA budgets;
- E. The Application was reviewed through two rounds of Commission and intervener information requests, a Panel information request, intervener evidence and applicant rebuttal evidence submissions, one round of information requests on intervener evidence, an Oral Hearing and written argument;
- F. BCOAPO submitted its application for PACA funding to the Commission on October 16, 2015, and CEC submitted its application for PACA funding on October 23, 2015. No other interveners submitted applications for PACA funding;
- G. On November 9, 2015, Creative Energy provided its comments on CEC's PACA application. On November 10, 2015, CEC provided its reply;
- H. On October 26, 2015, Creative Energy provided its comments on BCOAPO's PACA application. Also, on October 26, 2015, BCOAPO *et al.* submitted a revised PACA application removing GST from its consultant's invoice. On November 16, 2015, Creative Energy indicated it believes its previous comments on BCOAPO *et al.*'s PACA application are still applicable;
- I. On January 27, 2016, the Commission requested further information from CEC and on February 1, 2016, CEC provided that information; and
- J. The Commission has reviewed the PACA applications, comments from Creative Energy, reply and further submissions from CEC with regard to the criteria and rates set out in the PACA Guidelines and concluded that PACA funding should be awarded.

NOW THEREFORE pursuant to section 118(1) of the *Utilities Commission Act*, as set out in the Reasons for Decision attached as Appendix A to this order, the Commission orders as follows:

1. Participant Assistance/Cost Awards in the following amounts with respect to their participation in the Creative Energy Vancouver Platforms Inc. Application for a Certificate of Public Convenience and Necessity for a Low Carbon Neighbourhood Energy System for Northeast False Creek and Chinatown Neighbourhoods of Vancouver:

Participant	Award
Commercial Energy Consumers Association of British Columbia	\$53,664.24
British Columbia Old Age Pensioners' Organization <i>et al.</i>	\$37,256.12

2. Creative Energy Vancouver Platforms Inc. is directed to reimburse the above participants for the respective amounts that have been awarded in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 6th day of February 2016.

BY ORDER

Original signed by:

D. M. Morton
Panel Chair/Commissioner

Attachment

Creative Energy Vancouver Platforms Inc.
Application for a Certificate of Public Convenience and Necessity
for a Low Carbon Neighbourhood Energy System
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Applications for Participant Assistance/Cost Awards

REASONS FOR DECISION

On October 16, 2015, and October 23, 2015, respectively, the British Columbia Old Age Pensioners' Organizations *et al.* (BCOAPO) and the Commercial Energy Consumers of British Columbia (CEC) submitted their applications for Participant Assistance/Cost Awards (PACA). CEC's application was for 32 funding days totaling \$53,664.24 and BCOAPO's application was for 23.5 funding days totaling \$37,256.12.

CEC

In a letter dated November 9, 2015, Creative Energy Vancouver Platforms Inc. (Creative, CE) provided its comments on CEC's application. Creative Energy submits that:

...CEC is not eligible for PACA Funding because the entities represented by counsel and consultants of CEC did not have a 'substantial interest in a substantial issue' as contemplated in the PACA Guidelines. In the event that the Commission disagrees with Creative Energy and concludes that CEC is eligible for PACA Funding, then Creative Energy will submit that the PACA Award should be based on 3.5 proceeding days, and that the PACA Award should be calculated based on 5.25 days.

Creative Energy explains that in "...this proceeding, the same counsel and consultant represented the Commercial Energy Consumers of BC, Hollyburn Properties Limited, Onni Hastings Holding Corp., the Onni Group, and LandlordBC (collectively referred to as CEC)" and submits that "...the NEFC NES customer makeup will be primarily residential with a minimal amount of commercial uses, primarily a casino and hotel. Although CEC is a regular participant in Commission proceedings, and frequently receives PACA Funding, it does not matter unless CEC can establish that it represented the casino and hotel in this proceeding. It did not, so CEC should not receive a PACA Funding award."

In its letter dated November 10, 2015, CEC provided reply to Creative Energy's comments. CEC submits:

the Application by CE raises significant issues both for ratepayers of CE and for ratepayers of other utilities operating in British Columbia. The CEC represents customers both of CE and ratepayers of FortisBC Energy Inc. ("FEI"). The issues impacting FEI are relevant to the CEC as well as LandlordBC, Hollyburn Properties Limited, and Onni Hastings Holdings Corp. and the Onni Group as they are also ratepayers of FEI.

CEC also argues that the Application also includes areas of Chinatown which consists primarily of commercial properties. CEC submits that it is evident in the Application that the City of Vancouver intends to use the precedent of this Application to apply to all other areas which undergo significant redevelopment in the City of Vancouver, and this has significant potential impacts for CEC, LandlordBC, Hollyburn Properties Limited and Onni Hastings Holdings Corp. and the Onni Group.

CEC further argues:

The CEC represents the interests of not only existing customers but also future customers. The CEC represents customers of CE's steam service, both existing and future, who may be impacted dramatically by a concept of converting a public utility into an exclusionary monopoly with similarity to a municipal utility. The sweeping changes proposed as part of the CE's CPCN application brought considerable concern to these customer interests. These interests included the building owner and manager interests and their tenant interests. (CEC November 10, 2015, letter.)

CEC also submits that while residential high rise units may be residences, a number of them will potentially, over time be rental units whose landlords have interests represented by the customer groups supporting CEC.

CEC argues that it's "submissions reflected ratepayers' positions which were shared by other stakeholders who had an interest in this precedent setting proceeding. The CEC submits that there is no basis to arbitrarily cut the PACA award as proposed by CE." (CEC November 10, 2015, letter.) And explains:

The PACA Guidelines provide as follows '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 and a substantial issue' criteria.

The CEC represents a ratepayer group. As noted in the CEC's Final Submissions, Hollyburn Properties Limited is a commercial ratepayer and LandlordBC represents commercial ratepayers. The Onni Group is also a commercial ratepayer operating in the province of British Columbia. While they may have other business interests in this proceeding, they joined with the CEC in order to create regulatory efficiency and to ensure the Commission had the representation before it which demonstrated that ratepayer groups and non-ratepayer groups had a substantial interest and substantial issues in this proceeding. (CEC November 10, 2015, letter.)

On January 27, 2016, the Commission requested CEC to confirm that the invoices submitted in CEC's PACA application relate only to work performed for CEC by its consultant and counsel and not for work performed for the other parties, and to explain the allocation methodology CEC's consultant and counsel used to allocate time between the various parties they are representing.

In response, CEC states:

The addition of LandlordBC, Hollyburn and Onni as represented parties of the CEC's consultant and counsel were on the basis that they would rely on the arguments put forward by the CEC from a commercial ratepayer's perspective, as reflected in the CEC budget letter dated July 21, 2015 and the PACA funding request dated October 23, 2015.

Neither LandlordBC nor Hollyburn pursued any other issues and accepted and supported the CEC's positions as complete and so no additional billing was appropriate or rendered. Onni had counsel spend a total of 11.8 hours reviewing issues not directly pertaining to the CEC's positions and more directly related to informing Onni on the process as they had not previously participated in BCUC processes. Onni paid directly for those hours. No recovery of the 11.8 hours billed by counsel was sought by the CEC's counsel in the CEC's PACA Application.

BCOAPO

In a letter dated October 26, 2015, Creative Energy provided its comments on CEC's application. Creative Energy submits that:

Creative Energy supports the BCOAPO *et al.* PACA Final Award claim, subject only to Commission determinations regarding the number of 'proceeding days.' In the event the Commission concludes that the number of 'proceeding days' is four (one Procedural Conference, and three Oral Hearing days) and that the ratio of two preparation days to proceeding days is to apply, then adjustments to the BCOAPO Final Award Claim for counsel fees may be appropriate.

Also, on October 26, 2015, BCOAPO submitted a revised PACA application removing GST from its consultant's invoice. On November 16, 2015, Creative Energy indicated it believes its previous comments on BCOAPO's PACA application are still applicable.

Commission determination

CEC

The Commission determines that CEC is eligible for PACA funding. CEC represents commercial ratepayers. For example, FEI and Creative Energy's core steam service have commercial ratepayers whom CEC has represented in the past, Chinatown is primarily made up of commercial properties who could have been commercial ratepayers, and as Creative Energy has submitted, there is a small amount of commercial expected in the NEFC, including a casino and hotel. All of these commercial ratepayers have a substantial interest in a substantial issue in this proceeding. Creative Energy's core steam service customers, FEI's commercial ratepayers, Chinatown commercial owners, the small amount of commercial, including the casino and the hotel, could all be affected by the outcome of the CPCN and/or franchise area applications.

As for Creative Energy's submission that CEC's funding should be reduced. The Panel finds there is no basis for this. CEC combined with LandlordBC, Hollyburn and Onni in accordance with the PACA Guidelines and on the basis that they would rely on the arguments put forward by CEC from a commercial ratepayer's perspective. In addition, CEC did not request payment for services rendered to Onni for work not directly pertaining to the CEC's positions and more directly related to informing Onni on the process as they had not previously participated in Commission processes.

CEC and BCOAPO

The Panel finds the number of proceeding days to be half a day for the Procedural Conference, plus three days for the Oral Hearing, plus one day for arguments. Consequently, the Panel finds that this proceeding had 4.5 proceeding days for the purposes of PACA review. In addition, due to the complex nature of this application, the Panel finds that one consultant and one counsel is appropriate, and that up to three preparation days is required for every proceeding day for each of the consultant and the counsel.

As noted in the December 8, 2015, Creative Energy Vancouver Platforms Inc. Application for a Certificate of Public Convenience and Necessity for a Low Carbon Neighbourhood Energy System Low Carbon Neighbourhood Energy System for Northeast False Creek and Chinatown Neighbourhoods of Vancouver Decision, the parties contributed to a robust evidentiary record which provided sufficient evidence on significant public interest issues raised, to which the participants significantly contributed, thereby contributing to a better understanding by the Panel.

As such, **the Panel approves CEC and BCOAPO's PACA applications.**