



ORDER NUMBER
F-6-17A

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

and

Creative Energy Vancouver Platforms Inc.
Application for Approval of Northeast False Creek Connection Agreement
Participant Assistance/Cost Award Application

BEFORE:

H. G. Harowitz, Panel Chair/Commissioner
B. A. Magnan, Commissioner
R. D. Revel, Commissioner

on April 27, 2017

WHEREAS:

- A. On November 1, 2016, Creative Energy Vancouver Platforms Inc. (Creative Energy) filed with the British Columbia Utilities Commission (Commission) a revised application seeking interim and final approval of the Northeast False Creek (NEFC) Connection Agreement pursuant to sections 59 to 61 of the *Utilities Commission Act* (UCA);
- B. By Order G-169-16 dated November 24, 2016, the Commission issued a regulatory timetable establishing a written hearing process for the review of the application including one round of information requests and written final arguments;
- C. On March 23, 2017, the Commission issued Order G-42-17 with accompanying reasons for decision approving the revised Connection Agreement;
- D. The following participants filed Participant Assistance/Cost Award (PACA) applications with the Commission with respect to their participation in the Creative Energy Application for Approval of Northeast False Creek Connection Agreement proceeding:

Date (2017)	Participant	Application
February 13	BC Sustainable Energy Association and Sierra Club BC	\$6,652.80
March 1	Commercial Energy Consumers Association of British Columbia	\$11,916.23

- E. Creative Energy was provided with the PACA applications for its review and Creative Energy's comments, submitted by letter on March 20, 2017, were taken into consideration; and

- F. The Commission has reviewed the PACA applications in accordance with the criteria and rates set out in the PACA Guidelines, attached to Commission Order G-72-07, and is satisfied that both participants filing for PACA have substantial interest in one or more substantial issues in the proceeding and contributed to a better understanding of the issues by the Commission. The Commission concludes that the cost awards should be approved.

NOW THEREFORE pursuant to section 118(1) of the *Utilities Commission Act* and for the reasons attached as Appendix A to this order, the British Columbia Utilities Commission orders as follows:

1. Funding is awarded to the following interveners in the listed amounts for their participation in the Creative Energy Vancouver Platforms Inc. Application for Approval of Northeast False Creek Connection Agreement proceeding:

Participant	Award
BC Sustainable Energy Association and Sierra Club BC	\$6,652.80
Commercial Energy Consumers Association of British Columbia	\$11,916.23

2. Creative Energy Vancouver Platforms Inc. is directed to reimburse the above -noted participants for the awarded amount in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 27th day of April 2017.

BY ORDER

Original Signed By:

H. G. Harowitz
Commissioner

Attachment

Creative Energy Vancouver Platforms Inc.
Application for Approval of Northeast False Creek Connection Agreement

Participant Assistance/Cost Award Application

REASONS FOR DECISION

1.0 BACKGROUND

On February 13, 2017, and March 1, 2017, respectively, the BC Sustainable Energy Association and Sierra Club BC (BCSEA-SCBC) and the Commercial Energy Consumers Association of British Columbia (CEC) submitted their Participant Assistance/Cost Awards (PACA) applications to the British Columbia Utilities Commission in the Creative Energy Vancouver Platforms Inc. (Creative Energy) Application for Approval of Northeast False Creek Connection Agreement (Application) proceeding. CEC’s application was for \$11,916.23 and BCSEA-SCBC’s application was for \$6,652.80. The Panel, in its review of the PACA applications, took into consideration the PACA Guidelines set out in Commission Order G-72-07 and Creative Energy’s comments dated March 20, 2017. On April 3, 2017, the Commission issued Order F-6-17 approving the cost awards made by CEC and BCSEA-SCBC. On April 4, 2017, Creative Energy submitted a letter to the Commission requesting reasons be provided for Order F-6-17. The Panel is now issuing reasons for decision to accompany that order.

PACA Guidelines

The PACA Guidelines set out the eligibility requirements and criteria used in assessing cost awards, including the process for applying for a cost award and eligible costs and rates. The Commission provides PACA funding to participants in proceedings pursuant to section 118 of the *Utilities Commission Act* (UCA).

Section 118(1) of the UCA states: “The commission may order a participant in a proceeding before the commission to pay all or part of the costs of another participant in the proceeding.”

Furthermore, in Appendix A, page 1 of Order G-72-07, the PACA Guidelines 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.

2.0 PACA APPLICATIONS

Intervener PACA applications are summarized as follows:

Date (2017)	Participant	Application
February 13	BC Sustainable Energy Association and Sierra Club BC	\$6,652.80
March 1	Commercial Energy Consumers Association of British Columbia	\$11,916.23

Creative Energy was provided the opportunity to comment on the above PACA applications. Creative Energy provided comments on CEC's PACA application on March 20, 2017 and submits that: "Creative Energy does not believe the positions advocated by CEC related to the Connection Agreement are those of actual customers."

Creative Energy further argues:

[T]he mere existence of commercial interests that may be affected by the decision should not be sufficient grounds to approve PACA funding for CEC. PACA funding should be based on the basic proposition that there cannot be legal representation in the absence of a client. Unless stated otherwise by Mr. Weafer, the Commission must assume that the casino and hotel have not agreed to be legally represented by Mr. Weafer. If that is true, then the CEC PACA funding request should be denied.¹

2.1 Commercial Energy Consumers Association of British Columbia

On December 29, 2016, the Commission accepted CEC's request to intervene based on the following:

- CEC has long been recognized by the Commission as representing the interests of commercial ratepayers;
- CEC is composed of members who are commercial class customers of regulated energy utilities, including Creative Energy; and
- The Application affects the interests of commercial ratepayers through its impact on future commercial ratepayers who may receive service under the terms of the agreement.

As such, the Commission determined that CEC has a substantial interest in a substantial issue in the proceeding, and granted CEC intervener status.

In reviewing CEC's PACA application, the Panel applied the same eligibility screen as used to grant intervener status (i.e. a substantial interest in a substantial issue) and determined that CEC was eligible for PACA funding. Having established eligibility, the Panel assessed CEC's contribution to the proceeding in determining the amount of the award.

Commission determination

In challenging the cost award, Creative Energy argues that CEC does not represent existing customers and hence is not eligible for PACA funding.

The Panel disagrees with Creative Energy's position, and finds that CEC is eligible for PACA funding for a number of reasons, including, but not limited to:

- The PACA Guidelines do not restrict participation to existing ratepayers, and CEC has long been recognized by the Commission as representing the interests of commercial ratepayers.
- The Panel agrees with CEC's contention that the Application affects the interests of commercial ratepayers through its impact on future commercial ratepayers who may receive service under the terms of the agreement.

¹ Creative Energy Response to CEC PACA Application, letter dated March 20, 2017.

- While the Panel did not necessarily agree with all points raised by CEC, we found their contributions to be useful in arriving at our decisions in this proceeding.

The Panel also notes that Creative Energy did not take issue with CEC's status as an intervener at any time during the proceeding and only challenged their eligibility for PACA funding after the close of the evidentiary phase of the proceeding. Further, Creative Energy, in its letter disputing the PACA funding, did not take issue with the quality of the contributions made by CEC during the proceeding.

Hence, the Panel considers CEC's PACA application to be reasonable in the circumstance and in accordance with the criteria and rates set out in the PACA Guidelines, attached to Commission Order G-72-07. **The Commission determines that CEC is eligible for PACA funding in the amount applied for, and orders PACA to be paid as set out in Order F-6-17A.**