



**ORDER NUMBER
F-21-19**

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

and

British Columbia Hydro and Power Authority
Application to Amend Net Metering Service under Rate Schedule 1289
Interim Participant Assistance/Cost Award Application

BEFORE:

D. A. Cote, Panel Chair
R. I. Mason, Commissioner
R. D. Revel, Commissioner

on August 15, 2019

ORDER

WHEREAS:

- A. On April 29, 2019, BC Hydro filed an application to seek approval from the British Columbia Utilities Commission (BCUC) to, among other things, amend the Availability, Billing and Rate provisions in Rate Schedule 1289;
- B. By Order G-103-19A dated May 14, 2019, the BCUC established a regulatory timetable for the review of the Application, which includes one round of BCUC information requests (IRs) and one round of intervener IRs, with further process to be determined. The regulatory timetable was amended by Order G-144-19 and Order G-185-19;
- C. Mr. Pentti Sjoman (Mr. Sjoman) and Energy Canvas Ltd. applied for intervener status on June 10, 2019 and June 13, 2019, respectively;
- D. The following participants filed Interim Participant Assistance/Cost Award (PACA) applications with the BCUC with respect to their participation in the proceeding pursuant to the BCUC's Participant Assistance/Cost Award (PACA) Guidelines (Interim PACA Applications):

Date	Participant	Application
July 8, 2019	Mr. Sjoman	\$3,000 + GST
July 8, 2019	Energy Canvas Ltd.	\$3,000 + GST

- E. BCUC staff requested further information regarding the Interim PACA Applications. Mr. Sjoman and Energy Canvas Ltd. responded on July 9, 2019 and July 10, 2019, respectively;
- F. By letter dated July 23, 2019, BC Hydro provided its comments on the Interim PACA Applications, stating the interim funding requests are not warranted because the BCUC does not have sufficient grounds to be satisfied that the proceeding is lengthy, at this time;
- G. Mr. Sjoman and Energy Canvas Ltd. provided their reply comment on July 26, 2019 and July 25, 2019, respectively; and
- H. The BCUC has reviewed the Interim PACA Applications in accordance with the criteria and rates set out in the PACA Guidelines, attached to Commission Order G-97-17, and concludes that the cost awards are not warranted.

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 denies the application made by Energy Canvas Ltd. and Mr. Sjoman for an interim Participant Assistance/Cost Award.

DATED at the City of Vancouver, in the Province of British Columbia, this 15th day of August 2019.

BY ORDER

Original signed by:

D. A. Cote
Commissioner

Attachment

British Columbia Hydro and Power Authority
Application to Amend Net Metering Service under Rate Schedule 1289
Interim Participant Assistance/Cost Award Application

REASONS FOR DECISION

1.0 Introduction

On April 29, 2019, the British Columbia Hydro and Power Authority (BC Hydro) filed its Application to Amend Net Metering Service under Rate Schedule 1289 (Application). By Order G-103-19A, the British Columbia Utilities Commission (BCUC) established a written hearing process and a regulatory timetable to review the Application (Proceeding). The regulatory timetable was amended by Order G-144-19 and Order G-185-19, and includes one round of information requests with further process to be determined.

1.1 The Application

On July 8, 2019, Mr. Sjoman and Energy Canvas Ltd. filed applications for interim funding pursuant to the BCUC's Participant Assistance/Cost Award (PACA) Guidelines (Interim PACA Applications). Mr. Sjoman requests interim funding of \$3,000 plus GST, and submits that "[a]s a Professional Engineer who provides engineering services to various clients, my standard practice is to get a retainer before doing any engineering work.... The interim funding (retainer) is to cover my time in preparing an Information Request along with preparing a presentation to the proceedings." Energy Canvas Ltd.'s PACA budget includes a total funding estimate of \$10,584, and requests interim PACA funding of \$3,000 plus GST "to cover foreseen and unforeseen expenses till the end of the work."

1.2 The Applicants

Mr. Sjoman is a registered intervener in the Proceeding. According to Mr. Sjoman's intervener registration form dated June 10, 2019, Mr. Sjoman is a renewable energy engineer who has worked on micro-hydro net metering projects. Mr. Sjoman submits he has direct knowledge of challenges and hurdles to building a net metering micro-hydro project.¹

Energy Canvas Ltd. is a registered intervener in the Proceeding. According to Energy Canvas Ltd.'s intervener registration form, Mr. Tordoff is the owner of Energy Canvas Ltd. Mr. Tordoff elaborates in its response to BCUC staff questions that Energy Canvas Ltd. "will be representing the general concept rate payer and investor in onsite renewables."² Mr. Tordoff clarifies that he has reached out to his municipal clientele for up to date insight but he is not being engaged to present on their behalf.³

1.3 Legislative Framework

Section 118 of the *Utilities Commission Act* (UCA) states that 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.⁴

¹ Exhibit C22-1, pp. 1–2.

² Energy Canvas Ltd. response to staff questions, dated July 10, 2019.

³ *ibid.*

⁴ http://www.bclaws.ca/civix/document/id/lc/statreg/96473_01#section118

Order G-97-17 establishes the BCUC's Participant Assistance/Cost Award Guidelines (PACA Guidelines).⁵ Section 5.0 of the PACA Guidelines specifies the application process, requirements, and considerations for assessing interim funding requests. Specifically, Section 5.1 states:

Participants must make an application for interim funding to the Commission. The Commission will consider eligibility and amount for interim funding applications by applying Sections 3.0 and 4.0. In addition, the Commission must be satisfied that:

- a) the participant has demonstrated a need for financial assistance; and
- b) the proceeding is lengthy.

Section 3.0 relates to participant eligibility for a cost award and Section 4.0 relates to criteria for a cost award.

1.4 Review Process

In accordance with the review process specified under Section 5.3 of the PACA Guidelines, BCUC staff requested additional information from Mr. Sjoman and Energy Canvas Ltd. Mr. Sjoman provided his response to BCUC staff questions on July 9, 2019, and Energy Canvas Ltd. provided its response on July 10, 2019. BC Hydro was provided with copies of the Interim PACA Applications and the responses to staff questions, and was provided with the opportunity to comment on the cost award applications. BC Hydro provided its comment on the Interim PACA Applications on July 23, 2019, stating that "[i]n BC Hydro's view, the interim funding requests are not warranted because the BCUC does not have sufficient grounds to be satisfied that the proceeding is lengthy, at this time."⁶ Energy Canvas Ltd. and Mr. Sjoman provided their reply comments on July 25, 2019 and July 26, 2019, respectively.

2.0 PACA Funding for Mr. Sjoman

2.1 Eligibility for Interim PACA Funding

In accordance with Section 5.0 of the PACA Guidelines, in addition to applying Sections 3.0 and 4.0, the BCUC must be satisfied that: a) the participant has demonstrated a need for financial assistance; and b) the proceeding is lengthy.

With regards to whether the participant has demonstrated a need for financial assistance, Mr. Sjoman states that "it is my professional policy to get a retainer (interim funding) for any professional engineering services that I provide, and since the work that I will be doing on the matter before the Commission is providing professional engineering services I feel that a retainer (interim funding) is appropriate." Mr. Sjoman elaborates in his reply that "As a small engineering consultant every hour that I'm not devoting to my clients is a financial impact."⁷

⁵ https://www.bcuc.com/Documents/Guidelines/2019/G-97-17_BCUC_PACA-Guidelines.pdf

⁶ BC Hydro comment, dated July 23, 2019, p. 1.

⁷ Mr. Sjoman reply comment, dated July 26, 2019.

With regards to whether the proceeding is lengthy, Mr. Sjoman expressed he is unable to estimate the length of the proceeding, and states that “What I see is a substantial length of my professional engineering services time to review all the material and preparing an Information Request and preparing a presentation to the Commission.”⁸ Mr. Sjoman elaborates in his reply comment that “The BC Hydro submission is 234 pages, I consider that ‘lengthy’ and to filter through the document and to fully understand what it says and to prepare an Information Request is ‘lengthy’” and that “BC Hydro’s response to BCUC IR#1 is 331 pages, I consider that ‘lengthy’ and again to filter through that document and to fully understand what it says is ‘lengthy’.”⁹

BC Hydro states in its comments to the PACA Interim Funding Applications that “In BC Hydro’s view, the interim funding requests are not warranted because the BCUC does not have sufficient grounds to be satisfied that the proceeding is lengthy, at this time.” BC Hydro further states that:

The BCUC has set Friday, August 16, 2019 as the date for submissions from BC Hydro and interveners on further process. These submissions would provide the BCUC with additional information to evaluate whether or not the proceeding is lengthy. That said, even assuming a second round of information requests, followed by an argument phase, it is likely that this proceeding would conclude before the end of November 2019 or approximately four months from now.¹⁰

Mr. Sjoman stated in his reply comment, dated July 26, 2019, that he considers BC Hydro’s Application and its response to BCUC Information Requests is lengthy, and considers “to fully participate in the proceeding is ‘lengthy’.”

Panel Determination

The Panel denies Mr. Sjoman’s request for interim PACA funding. The Panel is not persuaded that Mr. Sjoman has demonstrated a need for financial assistance based on his practice of obtaining a retainer for the provision of professional services. The Panel is also of the view that, based on the currently established regulatory timetable and the scope of the Proceeding, it does not expect that the regulatory process to review this Application will be lengthy relative to other proceedings conducted by the BCUC. The Panel also does not agree with Mr. Sjoman’s interpretation of “lengthy” under Section 5.3 of the PACA Guidelines to refer to the volume of material submitted on the evidentiary record of the Proceeding, and interprets the PACA Guidelines to refer to length of time it takes to hear the Application. More importantly, the Panel does not have sufficient information at this point to evaluate Mr. Sjoman’s interim PACA funding amount based on the criteria laid out under Section 4.0 of the PACA Guidelines.

2.2 Eligibility for Professional Fees

Section 1 of the PACA Guidelines defines individual participant as “a participant, who may be potentially affected by a proceeding, representing their own interests and not the interests of a group or organization.” Section 7.11 of the PACA Guidelines states that “Generally the Commission will limit awards for individual participants to foregone earnings, childcare and disbursements. However, the Commission may award individual participants professional fees if it deems those fees are warranted for the individual to participate effectively.”

Mr. Sjoman states that he is a professional engineer and an expert consultant on the matter before the Commission, and feels that he qualifies for PACA funding under the same criteria as a lawyer or other consultant

⁸ Mr. Sjoman response to staff questions dated July 9, 2019.

⁹ Mr. Sjoman reply comment, dated July 26, 2019.

¹⁰ BC Hydro comment, dated July 23, 2019, p. 1.

would.¹¹ Mr. Sjoman states in a separate correspondence dated July 26, 2019, with the Commission Secretary that “I feel that this is reasonable and fair request for the Commission to confirm NOW, that I am a Professional/expert Consultant for final PACA Funding under Order G-97-17 Appendix A, Section 4 and Attachment A (section 1.b).”

Panel Discussion

The final determinations on any award are generally made upon application for cost awards after the proceeding, and considering the criteria noted in the PACA Guidelines. The criteria include, among other things, whether the participant has contributed to a better understanding by the BCUC of the issues in the proceeding, whether the participant joined with other groups with similar interest to reduce costs, whether the participant made reasonable efforts to avoid conduct that would unnecessarily lengthen the duration of the proceeding, and whether the costs incurred are fair and reasonable.¹² Consultants, specialists, and expert witnesses are expected to provide services related to their specialized technical expertise.¹³ At this time it has not been established that there is a need for the particular expertise that Mr. Sjoman has or whether his professional services are required. The Panel will make any final determination on the amount of PACA for Mr. Sjoman, including his qualification for professional fees, upon receiving a final application for PACA at the end of the proceeding.

The Panel notes that Mr. Sjoman is not engaged by the BCUC or any other party to the proceeding as a consultant or specialist. The Panel considers that Mr. Sjoman is presently participating in this proceeding to represent his own interests as an individual and not the interests of a group or organization. Therefore, the Panel considers at this time that Mr. Sjoman, as an individual participant, is highly at risk of not qualifying for professional fees if he makes a final application for PACA at the end of the proceeding. The Panel further notes that the BCUC welcomes input from the general public by establishing a public hearing process to review the Application, and provides individuals with the opportunity to apply for PACA for expenses such as disbursements, childcare, and foregone earnings.

3.0 Interim PACA Funding for Energy Canvas Ltd.

In accordance with Section 5.0 of the PACA Guidelines, in addition to applying Sections 3.0 and 4.0 (to be addressed in the subsection below), the Commission must be satisfied that: a) the participant has demonstrated a need for financial assistance; and b) the proceeding is lengthy.

With regards to whether the participant has demonstrated a need for financial assistance, Energy Canvas Ltd. states that “As a small business owner, how and where I invest my time directly impacts my business but also my family. The challenge with this proceeding and even this response is that it does not directly help pay the rent, or put food on the table.”¹⁴

With regards to whether the proceeding is lengthy, Energy Canvas Ltd. submits that “Given the uncertainty as to the length or even full scope of how I will contribute I am really not sure how to fully respond, but given my directly relevant experience and specific expertise, I believe the best thing for me is to do my best to provide my supply side consulting services approach to the proceeding.”¹⁵

¹¹ Mr. Sjoman response to staff questions, dated July 9, 2019.

¹² PACA Guidelines, Section 4.3.

¹³ PACA Guidelines, Section 7.5, 7.6, 7.7.

¹⁴ Energy Canvas Ltd. response to staff questions, dated July 10, 2019.

¹⁵ Energy Canvas Ltd. response to staff questions, dated July 10, 2019

BC Hydro states in its comments to the PACA Interim Funding Applications that “In BC Hydro’s view, the interim funding requests are not warranted because the BCUC does not have sufficient grounds to be satisfied that the proceeding is lengthy, at this time.” BC Hydro further states that “The BCUC has set Friday, August 16, 2019 as the date for submissions from BC Hydro and interveners on further process. These submissions would provide the BCUC with additional information to evaluate whether or not the proceeding is lengthy. That said, even assuming a second round of information requests, followed by an argument phase, it is likely that this proceeding would conclude before the end of November 2019 or approximately four months from now.”

In Energy Canvas Ltd.’s reply comment, Energy Canvas Ltd. states that “I have had a chance to read [BC Hydro’s comment] and understand the position taken by BC Hydro and that Interim funding will not be provided as proceedings less than 6 months are not considered long.”¹⁶

Panel Determination

The Panel determines that Energy Canvas Ltd. has not met the criteria for interim funding. The Panel is not persuaded that Energy Canvas Ltd. has demonstrated the need for financial assistance in order to participate effectively in the proceeding. Further the Panel is not persuaded that Energy Canvas Ltd. has demonstrated that the anticipated length of the proceeding will cause Energy Canvas Ltd. any hardship to participate effectively in the proceeding.

More importantly, the Panel does not have sufficient information at this time to evaluate Energy Canvas Ltd.’s interim PACA funding amount based on the criteria laid out under Section 4.0 of the PACA Guidelines. Any determination on a PACA award is generally made upon application for cost awards after the proceeding, and considering the criteria noted in the PACA Guidelines. The criteria include, among other things, whether the participant has contributed to a better understanding by the BCUC of the issues in the proceeding, whether the participant joined with other groups with similar interest to reduce costs, whether the participant made reasonable efforts to avoid conduct that would unnecessarily lengthen the duration of the proceeding, and whether the costs incurred are fair and reasonable.¹⁷ Consultants, specialists, and expert witnesses are expected to provide services related to their specialized technical expertise.¹⁸ At this time it has not been established that there is a need for the particular expertise that Energy Canvas Ltd. has or whether their professional services are required. The Panel will make any final determination on the amount of PACA, including the qualification for professional fees, upon receiving a final application for PACA at the end of the proceeding.

¹⁶ Energy Canvas Ltd. reply comment, dated July 26, 2019.

¹⁷ PACA Guidelines, Section 4.3.

¹⁸ PACA Guidelines, Section 7.5, 7.6, 7.7.