



**ORDER NUMBER
F-24-19**

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

and

FortisBC Inc.
Application for a Certificate of Public Convenience and Necessity
for the Grand Forks Terminal Station Reliability Project
Participant Assistance/Cost Award Application

BEFORE:

R. I. Mason, Panel Chair
W. M. Everett, QC, Commissioner
B. A. Magnan, Commissioner

on September 24, 2019

ORDER

WHEREAS:

- A. On November 19, 2018, FortisBC Inc. (FBC) submitted an application to the British Columbia Utilities Commission (BCUC) seeking approval for a Certificate of Public Convenience and Necessity (CPCN), pursuant to sections 45 and 46 of the *Utilities Commission Act*, for the Grand Forks Terminal (GFT) Station Reliability Project (Application);
- B. The Application consisted of the following (collectively, the Project):
 1. Purchase and installation of a second transformer at GFT Station;
 2. Removal of 44.6km of transmission lines “9 line” (9L) and “10 line” (10L) between the Christina Lake and Cascade substations; and
 3. Repurposing of the remaining 20.8km of transmission lines 9L and 10L to distribution lines in order to continue supplying power to customers;
- C. By Orders G-250-18, G-43-19, G-68-19 and G-77-19, the BCUC established and subsequently amended the regulatory timetable to review the Application. The timetable included Intervener registration and two rounds of information requests, followed by submissions of final and reply arguments;
- D. The following parties registered as Interveners in the proceeding to review the Application:
 - Alan Wait;
 - British Columbia Municipal Electrical Utilities;
 - British Columbia Old Age Pensioners’ Organization et al.;
 - Commercial Energy Consumers Association of British Columbia;
 - Industrial Customers Group; and
 - Norman Gabana;

- E. On July 25, 2019, by Order C-2-19 with accompanying Decision, the BCUC made its final determinations on the Application;
- F. The following participants filed Participant Assistance/Cost Award (PACA) applications with the BCUC with respect to their participation in the proceeding:

Date	Participant	Application
June 7, 2019	Commercial Energy Consumers Association of British Columbia	\$21,559.52
June 19, 2019	Industrial Customers Group	\$17,190.25
June 20, 2019	British Columbia Old Age Pensioners' Organization et al.	\$11,983.95

- G. By letter dated August 12, 2019, FBC provided its comments on the PACA applications; and
- H. The BCUC has reviewed the PACA applications in accordance with the criteria and rates set out in the PACA Guidelines, attached to BCUC Order G-97-17, and considers the following order is warranted.

NOW THEREFORE pursuant to section 118(1) of the *Utilities Commission Act*, the BCUC orders as follows:

- For reasons outlined in Appendix A to this Order, funding is awarded to the following interveners in the listed amounts for their participation in FBC's Application for a CPCN for the Grand Forks Terminal Station Reliability Project proceeding:

Participant	Award
Commercial Energy Consumers Association of British Columbia	\$21,204.48
Industrial Customers Group	\$17,190.25
British Columbia Old Age Pensioners' Organization et al.	\$11,983.95

- FBC 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 24th day of September 2019.

BY ORDER

Original signed by:

R. I. Mason
Commissioner

FortisBC Inc.
Application for Certificate of Public Convenience and Necessity
for the Grand Forks Terminal Station Reliability Project
Participant Assistant/Cost Award Application

REASONS FOR DECISION

1.0 Background

By Order C-2-19 with accompanying Decision dated July 25, 2019, the British Columbia Utilities Commission (BCUC) granted FortisBC Inc. (FBC) a certificate of public convenience and necessity (CPCN) for the following:

1. The purchase and installation of a second transformer at Grand Forks Terminal Station;
2. The removal of 44.6km of transmission lines 9L and 10L between the Christina Lake and Cascade substations; and
3. The repurposing of the remaining 20.8km of transmission lines 9L and 10L to distribution lines in order to continue supplying power to customers.

Participant Assistance/Cost Award (PACA) applications were filed by the Interveners for their participation in the proceeding, as listed and summarized below:

Date	Participant	Application
June 7, 2019	Commercial Energy Consumers Association of British Columbia (CEC)	\$21,559.52
June 19, 2019	Industrial Customers Group (ICG)	\$17,190.25
June 20, 2019	British Columbia Old Age Pensioners' Organization et al. (BCOAPO)	\$11,983.95

Section 118 of the *Utilities Commission Act* (UCA) provides 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.”

2.0 PACA Guidelines

The Panel, in its review of the PACA applications, was guided by the PACA Guidelines attached as Appendix 1 to BCUC Order G-97-17, which set out the eligibility requirements and criteria used in assessing cost awards, including the process for applying for a cost award, eligible costs and rates.

3.0 Criteria for a cost award

Section 7.1 of the PACA Guidelines, related to the use of professional services, “...expects participants to use professional services in a cost-effective manner and to make efforts to avoid duplication of services among legal

counsel, consultants, specialists, expert witnesses and case managers.” Further Sections 7.2 to 7.4 of the PACA Guidelines include the following guidance as it relates to the use of professional services:

Professional Fees

- 7.2 Maximum daily fees in Attachment A are based on an 8 hour day. Awards may be prorated for partial funding days. Where the actual billing rate for an 8 hour day is less than the maximum daily fee, the lesser amount will be used for the award.
- 7.3 Maximum daily fees in Attachment A do not include provisions for goods and services tax (GST) and provincial sales tax (PST), which will also be allowed, pursuant to Section 12.1.
- 7.4 Legal counsel are expected to perform legal services and may be paid in accordance with the fees listed in Attachment A including the maximum daily fees, or the fees commensurate with the level of experience the Commission deems necessary for a specific task. Participants are expected to use legal services in a cost-effective manner, giving regard to the years of experience required to perform tasks.

Section 1 of Attachment A to the PACA Guidelines, which outlines maximum daily fees as they relate to legal counsel and consultants and specialist/expert witnesses, is provided below:

1. Professional fees

a. Legal counsel

Years Since Call	Maximum Daily Fee
Articling student	\$850
0–4	\$1900
5–7	\$2250
8–12	\$2550
12+	\$2800

b. Consultants and specialist/expert witnesses

Years of Related Experience	Maximum Daily Fee
Consultant 0–4	\$950
Consultant 5–7	\$1300
Consultant 7+	\$1850
Specialist /Expert Witness	\$2150

c. Case managers: maximum \$600 per day.

4.0 PACA applications

Pursuant to section 14.2.4 of the PACA Guidelines, FBC was provided with copies of the Interveners’ PACA applications. In their reply dated August 12, 2019, FBC stated “...if the BCUC is satisfied that the participants have met the eligibility requirements, that the funding days claimed are appropriate, and that the level of participation has met with the BCUC’s criteria and requirements, then FBC has no further comment.”¹

¹ Letter from FBC dated August 12, 2019.

4.1 CEC

CEC represents the interests of commercial ratepayers who are or may be potentially affected in the future by the results of a proceeding. In this proceeding, CEC seeks a cost award of \$21,559.52.

BCUC Determination

In its consideration of the PACA Guidelines, the Panel considers that CEC contributed to a better understanding of the issues raised in this proceeding. CEC actively participated and the number of days that CEC has claimed for legal and consulting fees is within the Panel's expectation of funding days for this proceeding.

However, the Panel notes that the daily rate charged by legal counsel and reflected in CEC's PACA Application represents a weighted daily rate of services provided by multiple individuals, each of whom bill CEC at a different rate. In this case, the rate charged to CEC by senior legal counsel exceeds the maximum daily rate as outlined in Rate Schedule 1 of Attachment 1 to the PACA Guidelines.

The Panel views that Rate Schedule 1 applies to each individual providing legal or consulting services and does not apply to the weighted rate of all applicable service providers. Section 7.2 of the PACA Guidelines states "Maximum daily fees in Attachment A are based on an 8 hour day." Therefore, the maximum daily fee charged by an individual service provider can be determined by multiplying the hourly fee as reflected on the invoice by 8 hours to arrive at a daily equivalent fee.

The below table compares the maximum daily rate per Rate Schedule 1 against the daily equivalent fee charged by each of junior and senior legal counsel, as per the invoices:

	Hourly Rate per Invoice	Daily Equivalent Fee	Maximum Daily Rate
Sr. Legal Counsel	\$375.00	\$3,000.00	\$2,800.00
Jr. Legal Counsel	\$220.00	\$1,760.00	\$1,900.00

From the above-table, the daily equivalent fee of \$3,000 charged by senior legal counsel exceeds the maximum daily rate by \$200, and so the amount charged under PACA Guidelines is reduced to the maximum daily rate of \$2,800. Junior legal counsel, however, has claimed the daily equivalent fee of \$1,760, which is less than the maximum daily rate of \$1,900 for junior legal counsel, and therefore does not have their fee reduced.

For the reasons stated above, the Panel awards CEC participant costs of \$21,204.48, inclusive of applicable taxes. The award is calculated as follows:

	Daily Rate	Days	Total	GST	PST	Total
Consulting Services	\$1,850.00	4.06	\$7,511.00	\$375.56	-	\$7,886.56
Sr. Legal Counsel	\$2,800.00	4.05	\$11,340.00	\$567.00	\$793.80	\$12,700.80
Jr. Legal Counsel ²	\$1,760.00	0.29	\$506.00	\$25.30	\$35.42	\$566.72
Other			\$45.00	\$2.25	\$3.15	\$50.40
Total Award						\$21,204.48

² Equivalent days for Jr. Legal Counsel are 2.3 hours / 8 hours per day = 0.2875 days.

4.2 ICG

ICG's membership is comprised of industrial and manufacturing companies in the forest products sector, and whose members share a common interest in safe, reliable power at reasonable rates. In this proceeding, ICG seeks a cost award of \$17,190.25.

BCUC Determination

In its consideration of the PACA Guidelines, the Panel considers that ICG contributed to a better understanding of the issues raised in this proceeding. ICG actively participated and the number of days that ICG has claimed for legal and consulting fees is within the Panel's expectation of funding days for this proceeding.

For the reasons stated above, the Panel awards ICG participant costs of \$17,190.25, inclusive of applicable taxes. The award is calculated based on the equivalent number of funding days per the invoices submitted and multiplied by the appropriate daily rate.

4.3 BCOAPO

BCOAPO's interest in this proceeding stems from its members, a group of community organizations that work for and represent the interests of low and fixed income residents of BC. In this proceeding, BCOAPO seeks a cost award of \$11,983.95.

BCUC Determination

In its consideration of the PACA Guidelines, the Panel considers that BCOAPO contributed to a better understanding of the issues raised in this proceeding. BCOAPO actively participated and the number of days that BCOAPO has claimed for legal and consulting fees is within the Panel's expectation of funding days for this proceeding.

For the reasons stated above, the Panel awards BCOAPO participant costs of \$11,983.95, inclusive of applicable taxes. The award is calculated based on the equivalent number of funding days per the invoices submitted and multiplied by the appropriate daily rate.