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ORDER NUMBER
F-35-20

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

and

British Columbia Hydro and Power Authority, FortisBC Energy Inc. and FortisBC Inc.
Evacuation Relief Tariff Amendment Application
Participant Assistance/Cost Award Application

BEFORE:
A. K. Fung, QC, Panel Chair
T.A. Loski, Commissioner

on October 6, 2020

ORDER

WHEREAS:

A. On August 1, 2018, FortisBC Energy Inc. (FEI) and FortisBC Inc. (FBC) (collectively, FortisBC) applied to the British Columbia Utilities Commission (BCUC) for the following approvals (FortisBC Application):

   1. Pursuant to section 63 of the *Utilities Commission Act* (UCA), approval to provide to evacuee customers (Evacuee Customers) who were under an evacuation order due to flooding or wildfires between May 1 and August 31, 2018 (the Applicable Period), a credit for the charges that would otherwise have applied to the Evacuee Customers during the Applicable Period (the Applicable Charges) (Part 1 of the FortisBC Application); and

   2. Pursuant to sections 59 to 62 of the UCA, approval for tariff changes to the FEI General Terms and Conditions (FEI Tariff) and the FBC Terms and Conditions (FBC Tariff). The changes to the FEI Tariff and FBC Tariff are to permit evacuation relief for customers who are subject to an evacuation order (Part 2 of the FortisBC Application).

B. Following a review of Part 1 of the FortisBC Application, on September 13, 2018, by Order G-169-18 and G-170-18, among other things, the BCUC approved the provision of a credit for the Applicable Charges for FEI and FBC;

C. On August 8, 2019, British Columbia Hydro and Power Authority (BC Hydro) applied to the BCUC for the following approvals (BC Hydro Application):

   1. Pursuant to section 63 of the UCA, BC Hydro seeks consent to waive certain charges for residential, small general service, irrigation and private outdoor lighting service customers in BC Hydro's service territory subject to evacuation orders from the period starting December 5, 2018 and until final BCUC

approval of the Evacuation Relief Tariff Application and Regulatory Account Treatment (Part 1 of the BC Hydro Application); and

2. Pursuant to sections 59 to 61 of the UCA, BC Hydro seeks approval to amend its Electric Tariff to permit credit relief or waiver of charges to customers who are subject to an evacuation order. BC Hydro also seeks approval for the deferral of revenue impacts related to this credit relief and waivers of charges to the Storm Restoration Costs Regulatory Account (Part 2 of the BC Hydro Application).

D. Following a review of Part 1 of the BC Hydro Application, on October 3, 2019, by Order G-239-19, the BCUC consented to BC Hydro providing bill credits and waivers to customers affected by evacuation orders;

E. By Order G-249-19 and G-250-19, the BCUC found regulatory efficiency warranted that the respective tariff amendments sought in the BC Hydro Application and the FortisBC Application (collectively, Applications) be heard at the same time and established a written public hearing process and regulatory timetable for the review of the Applications, which included, among other things, dates for intervener registration, BCUC and intervener information requests (IR) No. 1;

F. By Order G-256-19, the BCUC amended the regulatory timetable to delay the proceeding at the request of BC Hydro and FortisBC due to resource constraints;

G. By Orders G-68-20, the BCUC established the remainder of the regulatory timetable which included BCUC and intervener IRs No. 2, and written final and reply arguments;

H. The following parties registered as interveners:

- British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO); and
- Commercial Energy Consumers Association of British Columbia (CEC).

I. On August 14, 2020, by Orders G-215-20, G-216-20 and G-217-20 with the decision issued concurrently, the BCUC made various determinations on the Applications, including granting approval to FortisBC and BC Hydro to amend their respective tariffs to provide evacuation relief to eligible customers;

J. The following participants filed Participant Assistance/Cost Award (PACA) applications with the BCUC with respect to their respective participation in the proceeding:

Date	Participant	Application
July 21, 2020	The CEC	$12,055.76
July 30, 2020	BCOAPO	$18,894.66

K. By email dated August 20, 2020, the BCUC granted to BC Hydro and FortisBC the opportunity to comment on the PACA requests and the appropriate allocation of any cost award to each of the utilities;

L. By letter dated August 26, 2020, BC Hydro provided its comments on the PACA applications, stating it has reviewed the cost claims made by the participants and finds that they are substantially consistent with the PACA Guidelines (BCUC Order No. G-97-17) and that each of the participants contributed towards a better understanding of the Application and BC Hydro leaves it to the BCUC as to the level of cost awards to be made;

M. By letter dated September 2, 2020, FortisBC provided comments on the PACA applications, stating it has reviewed the PACA applications and 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 FortisBC has no further comment. FortisBC submits it has no objection with a proposed allocation of costs equally amongst the three utilities; and

N. 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 makes the following determinations.

NOW THEREFORE pursuant to section 118(1) of the UCA , the BCUC orders as follows:

1. Funding is awarded to the following interveners in the listed amounts for their respective participation in the proceeding:

Participant	Award
The CEC	$12,005.36
BCOAPO	$18,894.66

2. For the reasons outlined in Appendix A to this order, funding to the CEC for the "Open File Charge" is denied.

3. BC Hydro, FEI and FBC are directed to reimburse the above-noted participants for their respective awarded amounts in a timely manner and to allocate the costs to each utility on the basis of one third each.

DATED at the City of Vancouver, in the Province of British Columbia, this 6th day of October 2020.

BY ORDER

Original Signed By:

A. K. Fung, QC
Commissioner

Attachment

British Columbia Hydro and Power Authority, FortisBC Energy Inc. and FortisBC Inc.
Evacuation Relief Tariff Amendment Application

REASONS FOR DECISION

1.0 BACKGROUND

British Columbia Hydro and Power Authority (BC Hydro) alongside FortisBC Inc. (FBC) and FortisBC Energy Inc. (FEI) (collectively FortisBC) applied for approval from the British Columbia Utilities Commission (BCUC) to amend their respective tariffs to provide evacuation relief to eligible customers (Applications). Considering the similar objectives in the BC Hydro and FortisBC applications, and for the benefit of ensuring a harmonized approach, by Orders G-249-19 and G-250-19 the BCUC established one proceeding to jointly review the Applications. The following parties registered as interveners in this proceeding:

- British Columbia Old Age Pensioners' Organization et al. (BCOAPO); and
- Commercial Energy Consumers Association of British Columbia (CEC).

The regulatory process for review of the Applications was established by orders of the BCUC and comprised two rounds of BCUC and intervener information requests to BC Hydro and FortisBC, as well as written final and reply arguments. On August 14, 2020, the BCUC issued its decision on BC Hydro's and FortisBC's proposed amendments to their respective tariffs to provide evacuation relief to eligible customers.

Following the filing of BC Hydro's and FortisBC's reply arguments on June 26, 2020 and June 30, 2020 respectively, the following participants filed Participant Assistance/Cost Award (PACA) applications with the BCUC with respect to their respective participation in the proceeding:

Date	Participant	Application
July 21, 2020	The CEC	$12,055.76
July 30, 2020	BCOAPO	$18,894.66

Subsequent to the PACA application filings, BC Hydro and FortisBC were afforded the opportunity to comment on the PACA requests and on the BCUC's proposal to allocate one-third of any awarded funding to each utility.

BC Hydro responded on August 26, 2020, stating it "reviewed the cost claims made by the [a]pplicants and finds that they are substantially consistent with the Participant Assistance/Cost Award Guidelines (Commission Order No. G-97-17)." BC Hydro also noted that "[e]ach of the [a]pplicants contributed towards a better understanding of the Application and BC Hydro leaves it to the Commission as to the level of cost awards to be made."[1]

FortisBC responded on September 02, 2020, stating it "reviewed the PACA applications and if the BCUC is satisfied that the participants have met the eligibility requirements, that the funding days claimed are

[1] BC Hydro Letter dated August 26, 2020, p. 1.

appropriate, and that the level of participation has met with the BCUC's criteria and requirements, then FortisBC has no further comment." FortisBC also noted that it "has no objection with the proposed allocation of costs at one-third between the three applicant utilities FortisBC Energy Inc., FortisBC Inc. and BC Hydro."[2]

2.0 CRITERIA FOR COST AWARDS

Section 118(1) 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."

The PACA Guidelines as set out in Appendix A attached to BCUC Order G-97-17 dated June 15, 2017, 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.

Section 3.1 of the PACA Guidelines outlines the considerations to determine participant eligibility for a cost award. The BCUC will consider whether the participant:

a. is directly or sufficiently affected by the BCUC's decision; or
b. has experience, information, or expertise relevant to a matter before the BCUC that would contribute to the BCUC's decision-making.

Section 3.2 of the PACA Guidelines describes the general characteristics of a participant in a proceeding that would meet the eligibility criterion.

If the participant is eligible for a cost award, the Panel then considers the following in determining the amount of a participant's cost award in accordance with section 4.3 of the PACA Guidelines:

a. Has the participant contributed to a better understanding by the BCUC of the issues in the proceeding?
b. To what degree will the participant be affected by the outcome of the proceeding?
c. Are the costs incurred by the participant fair and reasonable?
d. Has the participant joined with other groups with similar interests to reduce costs?
e. Has the participant made reasonable efforts to avoid conduct that would unnecessarily lengthen the duration of the proceeding, such as ensuring participation was not unduly repetitive?
f. The funding day calculation for funding in accordance with sections 4.1 and 4.2, if one is provided.
g. Any other matters which the BCUC determines appropriate in the circumstances.

Sections 7.0 through 13.0 of the PACA Guidelines outline the types of eligible costs that can be awarded to participants including, among other things, professional fees, foregone earnings, childcare expenses, disbursements, tax costs and other costs.

With respect to disbursements and other costs, section 10.1 states: "[d]isbursements directly related to the participant's participation in the proceeding may be allowed." Section 13.1 of the PACA Guidelines provides an overarching inclusion of "other costs the Commission deems reasonable and justified."

3.0 REVIEW OF PACA REQUESTS

[2] FortisBC Letter dated September 02, 2020, p. 2.

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

BCOAPO and the CEC both claimed for disbursements and/or other costs. BCOAPO claimed $16.01 (inclusive of tax) for printing and photocopying and the CEC claimed $50.40 (inclusive of tax) for an "Open File Charge." In assessing the reasonableness and fairness of the disbursements and other costs, the Panel must consider whether those costs are necessarily or properly incurred in the conduct of the proceeding.

The Panel acknowledges that the proceeding was conducted through a written process and accepts that the printing and photocopying charges claimed by BCOAPO are reasonable and justified. However, the "Open File Charge" claimed by the CEC appears to relate to the creation by the CEC's legal consultant of a new file to initiate the provision of legal services for this proceeding. The Panel questions whether this charge is reasonable and justified.

In determining whether a particular cost should be awarded following a proceeding, the Panel considers it important to review the context and nature of the cost in question. The Panel notes that the terms "disbursements directly related to the participant's participation" and "other costs the Commission deems reasonable and justified" in sections 10.1 and 13.1 of the PACA Guidelines, respectively, limit the scope of recoverable costs. The question becomes whether a properly incurred cost is recoverable because it arises directly from the factual issues raised in the proceeding, as opposed to the specific circumstances and business practices of the participant.

The purpose of permitting the recovery of disbursements and other costs is to provide the participant with a means by which to be reimbursed for costs that arise directly from the issues of the proceeding or for materials or services that directly support its participation in the proceeding. The Panel does not accept that the CEC's legal consultant's "Open File Charge" is a necessary cost that arises directly from the issues of the proceeding or directly supports the CEC's participation in the proceeding. Instead the cost is a result of the CEC's legal consultant's existing cost structure and thus, while it may represent a standard business practice for that consultant, it is not necessary for the conduct of the proceeding, and accordingly does not reflect the intent of the cost awards under the PACA Guidelines. For these reasons, the Panel finds that the "Open File Charge" claimed by the CEC not to be a reasonable or justified cost which should form part of the CEC's PACA award.

The Panel awards participant costs of $18,894.66 and $12,005.36, inclusive of applicable taxes, to BCOAPO and the CEC respectively.