



**ORDER NUMBER
F-9-22**

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

and

British Columbia Hydro and Power Authority
Application for Certificates of Public Convenience and Necessity for the Bridge River Projects
Interim Participant Assistance/Cost Award Application

BEFORE:

R. I. Mason, Panel Chair
C. M. Brewer, Commissioner
A. C. Dennier, Commissioner

on February 10, 2022

ORDER

WHEREAS:

- A. On July 23, 2021, British Columbia Hydro and Power Authority (BC Hydro) filed an application with the British Columbia Utilities Commission (BCUC) for a Certificate of Public Convenience and Necessity (CPCN) for the Bridge River 1 Units 1 to 4 Generator Replacement Project (BR1 Project) and a CPCN for the Bridge River Transmission Project (BRT Project) (together, Application);
- B. On November 19, 2021, St'at'imc Chiefs Counsel (SCC) requested to intervene in the BC Hydro Bridge River CPCN proceeding;
- C. On January 7, 2022, SCC filed an application for interim Participant Assistance / Cost Award (PACA) funding (Interim PACA Application). SCC seeks \$53,536.00 in interim PACA funding;
- D. By letter dated January 24, 2022, BC Hydro provided its comments on the Interim PACA Application, stating that the application to be consistent with the PACA Guidelines, and makes no comment on the number of funding days and defers to the BCUC to determine the specific interim cost award; and
- E. The BCUC has reviewed the Interim PACA Application in accordance with the criteria and rates set out in the PACA Guidelines, attached to Order G-97-17, and determines that an interim cost award should be granted as an advance against the BCUC's final cost award determination.

NOW THEREFORE for the reasons outlined in Appendix A to this order, pursuant to section 118(1) of the *Utilities Commission Act*, the BCUC orders as follows:

1. Interim funding in the listed amount is awarded to SCC as an advance against the BCUC's final cost award for participation in the BC Hydro Bridge River CPCN proceeding:

Participant	Award
SCC	\$53,536.00

2. BC Hydro is directed to reimburse SCC for the awarded amount in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 10th day of February 2022.

BY ORDER

Original signed by:

R. I. Mason
Commissioner

Attachment

British Columbia Hydro and Power Authority
Application for Certificates of Public Convenience and Necessity for the Bridge River Projects
Interim Participant Assistance/Cost Award Application

REASONS FOR DECISION

1.0 Introduction

On July 23, 2021, British Columbia Hydro and Power Authority (BC Hydro) filed an application with the British Columbia Utilities Commission (BCUC) for the approval of a Certificate of Public Convenience and Necessity (CPCN) for the Bridge River 1 Units 1 to 4 Generator Replacement Project (BR1 Project) and a CPCN for the Bridge River Transmission Project (BRT Project) (together, Application).

On November 19, 2021, St'at'imc Chiefs Counsel (SCC) requested to intervene in the BC Hydro Bridge River CPCN proceeding (Proceeding). On January 7, 2022, SCC filed an application for interim Participant Assistance/ Cost Award (PACA) funding (Interim PACA Application). SCC seeks \$53,536 in interim PACA funding.

1.1 Summary of Interim Funding Request

In the Interim PACA Application, SCC outlines its cost estimate of \$53,536.00 for legal counsel fees required for tasks including legal advice to SCC regarding process, information requests and submissions, legal research, reviewing hearing exhibits, drafting Information Requests, drafting submissions on further process.

The budget estimate summary contains request for funding for two legal counsels. The table below summarizes the professionals and rates from Sage Legal LLP identified as counsel for SCC:

Name	Year of Experience	Daily Rate (\$)	Number of Days	Total (Incl. tax)
Anne Muter	13	2,800	13	\$40,768
Mackenzie Curran	2	1,900	6	\$12,768

1.2 BC Hydro Comments on Interim PACA Application

By letter dated January 24, 2022, BC Hydro provided its comments on the Interim PACA Application, stating that the application appeared to be consistent with the PACA Guidelines, and makes no comment on the number of funding days and defers to the BCUC to determine the specific interim cost award.

1.3 Reasons for Decision Outline

The Panel has reviewed the Interim PACA Application in accordance with the PACA Guidelines attached to Order G-97-17 (PACA Guidelines). In these reasons for decision, the Panel addresses SCC's eligibility for interim PACA funding, and provides an explanation of the interim funding awarded to SCC. Additionally, the Panel provides recommendations for SCC to address in its final PACA application to the BCUC upon the conclusion of this proceeding.

2.0 Eligibility for Interim PACA Funding

Section 5.1 of the PACA Guidelines states that for interim funding applications, the BCUC must be satisfied that (a) the participant has demonstrated a need for financial assistance; and (b) the proceeding is lengthy.

In its Interim PACA Application, SCC states:

SCC requires interim funding to be able to engage legal counsel and possibly experts to review the evidence and assist with their engagement in this process. SCC does not have the financial ability to pay for these legal and expert costs and thus needs interim funding to substantively engage in the process. SCC also has internal capacity and financial constraints which would limit its ability to engage without funding.

The current regulatory schedule is not lengthy; however, the next stage of the process includes submissions on further processes, and it is very likely the process will be lengthened. The BRT portion of the CPCN application will likely be added to and again will lengthen the process. Even at the current schedule the process goes until late March 2022. Given, the above financial need SCC cannot carry these costs even just for several months into 2022.

Panel Discussion

The Panel finds that SCC qualifies for interim PACA funding in the Proceeding.

The Panel is satisfied with SCC's assertion that it does not have the financial ability to pay for the legal and expert costs to participate in the Proceeding.

Further, the Proceeding will be sufficiently lengthy to justify interim funding. BC Hydro submitted the Application on July 23, 2021, over six months ago, and states it will provide an evidentiary update in March 2022 for the BRT portion of the Application.¹ It is unlikely that the Proceeding will be completed in less than a year from the date the Application was submitted.

The Panel notes that BC Hydro raises no objections to SCC's qualifications for interim funding.

3.0 Amount of Interim Funding Award

Having determined SCC is eligible for interim PACA funding, the Panel now considers what amount of interim funding is warranted, and under what conditions. Sections 5.3 to 5.5 of the PACA Guidelines provide the following guidance:

5.3 Upon completion of the process set out in Sections 14.2.3 and 14.2.7, interim funding may be ordered by the Commission for: (a) costs, or a portion thereof, that have been incurred after the proceeding has begun; or (b) estimated costs not yet incurred.

5.4 Interim funding ordered by the Commission typically does not exceed 50 percent of the participant's budget estimate.

¹ Exhibit B-1, p. 1-26.

5.5 If interim funding is granted, the Commission will make a determination as to whether the amount (a) constitutes a final award for costs already incurred; or (b) constitutes an advance against the Commission's final cost award determination after the conclusion of the proceeding.

Panel Determination

The Panel awards interim funding to SCC in the amount of \$53,536.00 as an advance against the BCUC's final cost award determination to SCC after the conclusion of the Proceeding.

Having determined that SCC should receive interim funding, the Panel must determine the amount of the interim award.

SCC has not filed a budget estimate for its participation in the entire Proceeding. Therefore, the Panel is not able to assess whether the requested amount of \$53,536.00 exceeds 50 percent of SCC's budget estimate, which section 5.4 of the PACA Guidelines states would not be typical.

The Panel considers that the interim funding request of \$53,536.00 is likely to be less than the final funding award at the conclusion of the Proceeding, and notes that BC Hydro does not oppose the amount of the interim award. Therefore, the Panel finds that the amount of \$53,536.00 is reasonable as an interim award for SCC in this Proceeding.

The Panel makes no determination on the contribution of the SCC in the Proceeding or whether the figure of \$53,536.00 would represent a reasonable final award for the costs incurred by SCC to date in the Proceeding because SCC has not applied for a final award.

4.0 Recommendations for SCC's Filing of a Final PACA Application

In making its determination of a final PACA application, the BCUC considers factors from section 4 of the PACA Guidelines, including whether the costs incurred by the participant are fair and reasonable.

It is not clear to the Panel how SCC's activities to date have been allocated between the two legal counsels. As noted above, the Panel makes no determination on this matter. However, to assist SCC in its filing of an application for a final PACA application after the end of the Proceeding, the Panel recommends that SCC demonstrates that it has:

- avoided unnecessary duplication of effort between multiple legal counsels; and
- assigned work cost-effectively between senior and junior legal counsels.

The BCUC will consider whether SCC's total PACA requested in a final PACA application is just and reasonable, including scrutinizing the details of legal invoices for work related to the Application, and, if necessary, adjusting the amounts recoverable. The BCUC will also reduce any final PACA award by the total of all interim awards granted during the Proceeding, including the \$53,536.00 granted in this decision.