



ORDER NUMBER
F-23-24

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

and

BCSEA Reconsideration of BCUC TES Phase 1 Report
Participant Cost Award Application

BEFORE:
M. Jaccard, Panel Chair

on April 29, 2024

ORDER

WHEREAS:

- A. On December 20, 2019, by Order G-341-19, the British Columbia Utilities Commission (BCUC) established a written public hearing for the review of a proposed regulatory framework for Thermal Energy Systems (TES) (TES Review);
- B. By letter dated December 21, 2023, the BCUC issued a decision and panel report (Report) seeking the approval of the Minister of Energy, Mines and Low Carbon Innovation to issue orders under section 88(3) of the *Utilities Commission Act* (UCA) granting exemptions based on the report;
- C. By letter dated February 1, 2024, the BC Sustainable Energy Association (BCSEA) filed an application for reconsideration of the Report (Reconsideration Application). In the Reconsideration Application BCSEA alleged that in phase 1 of the TES Review the BCUC erred in fact, law or jurisdiction in rescinding the current exemptions. BCSEA also sought reconsideration on the grounds that the BCUC erred in rejecting legacy treatment for existing Micro and Strata Thermal Energy Systems;
- D. By letter dated February 29, 2024, the BCUC appointed a panel for the review of BCSEA's Reconsideration Application;
- E. By Order G-74-24 dated March 15, 2024, the BCUC summarily dismissed the Reconsideration Application with reasons;
- F. By letter dated 20 March 2024 the BCSEA filed a Participant Cost Award (PCA) application of \$14,455.53 with the BCUC with respect to their participation in the proceeding; and
- G. The BCUC has reviewed the PCA application in accordance with the criteria and rates set out in the BCUC Rules of Practice and Procedure.

NOW THEREFORE pursuant to section 118(2) of the *Utilities Commission Act*, and for the reasons outlined in the decision accompanying this order, the BCUC denies BCSEA's PCA application.

DATED at the City of Vancouver, in the Province of British Columbia, this 29th day of April 2024.

BY ORDER

Original signed by:

M. Jaccard
Commissioner

DECISION

1.0 Introduction

On December 21, 2023, the BCUC issued a decision in a report to the Minister (Decision) which concluded phase 1 of the Review of Thermal Energy Systems Regulatory Framework proceeding (TES Review).

On February 1, 2024, the BC Sustainable Energy Association (BCSEA) filed an application for reconsideration of the Decision to rescind the current class exemptions (Current Exemptions) from sections 23, 25, 38 and 41 of the *Utilities Commission Act* (UCA) for Micro and Strata Thermal Energy Systems (TES) (Reconsideration Application).

On March 15, 2024, by Order G-74-24 the Panel summarily dismissed the Reconsideration Application, finding that BCSEA had not established any error of fact, law or jurisdiction that would provide any reasonable grounds for the BCUC's recommendations in the Decision to be reconsidered. The Panel noted that the Decision does not recommend a rescission of the Current Exemptions for Strata and Micro TES, instead the BCUC recommends the exemption expand the exclusion of UCA provisions relating to safety and reliability for all TES, including Micro and Strata TES.

On March 20, 2024, BCSEA filed a Participant Cost Award (PCA) application with the BCUC for costs incurred related to the Reconsideration Application.

1.1 Legislative context

Section 118 (2) of the UCA relating to participant costs states:

If the commission considers it to be in the public interest, the commission may pay all or part of the costs of participants in proceedings

Rule 28.01 of Part V – Reconsideration of the BCUC's Rules of Practice and Procedure (BCUC Rules) states:

Upon the filing of an application for reconsideration of a decision, the BCUC may, without further process, summarily dismiss the application, in whole or in part, on the basis that it fails to establish, on its face, any reasonable grounds for reconsideration of the decision.

Rule 32.03 of Part VI – Participant Cost Awards states:

A participant may only claim costs for participation in a proceeding from the date the proceeding is initiated until the date of the final decision or report.

2.0 Participant Cost Award Application

On March 20, 2024, BCSEA filed a Participant Cost Award (PCA) application with the BCUC in the amount of \$14,455.53. BCSEA seeks an award for professional fees incurred by their legal counsel and consultant respecting preparation of the Reconsideration Application.

BCSEA submits that, while the Reconsideration Panel summarily dismissed the reconsideration application, it provided detailed responses to the points in the reconsideration application, many of which will arise again in Phase 2 of the TES Review proceeding. Further, the reasons for the reconsideration decision explained the original decision in a manner that will be helpful to the parties in Phase 2 and to the Minister of Energy in determining whether to issue advance approval under section 88(3) of the UCA as requested by the BCUC in the original decision.

BCSEA submits that all costs applied for are necessarily and properly incurred in the conduct of the proceeding, according to the terms set out in Part 6 of the BCUCs Rules, approved by Order G-178-22, June 30, 2022. The supporting invoices provided by BCSEA cover the period between January 25, 2024 and March 1, 2024, with 2.9 hours of the total 40.1 hours of time claimed occurring after the filing of the Application on February 1, 2024.

3.0 Panel Determination

The BCSEA's PCA Application is denied.

Pursuant to Rule 32.03 of the BCUC Rules, participants may only claim costs from the date a proceeding is initiated. The Panel notes that the majority of the time, for which BCSEA is claiming a cost award, occurred prior to the filing of the Reconsideration Application.

Section 118(2) of the UCA provides the BCUC with discretion to pay all or part of participant costs, should the Panel consider it to be in the public interest. In the case of the BCSEA Reconsideration Application, by Order G-74-24 and accompanying reasons for decision the Panel found that BCSEA failed to establish any reasonable grounds for reconsideration and summarily dismissed the Reconsideration Application without further process or establishing a hearing.

Given the Panel's decision to dismiss the Reconsideration Application, the Panel denies BCSEA's request for participation costs.

DATED at the City of Vancouver, in the Province of British Columbia, this 29th day of April, 2024.

Original signed by:

M. Jaccard
Panel Chair/Commissioner