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BRITISH COLUMBIA  
UTILITIES COMMISSION

ORDER  
NUMBER G-117-93

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AN ORDER IN THE MATTER OF the Utilities Commission  
Act, S.B.C. 1980, c. 60, as amended

and

A Policy on Participant Funding

BEFORE: M.K. Jaccard, Chairperson; and )  
K.L. Hall, Commissioner ) December 8, 1993

**O R D E R**

**WHEREAS:**

- A. In 1992 the Minister of Energy, Mines and Petroleum Resources ("MEMPR") advised the Commission that the Government was developing a policy on intervenor funding and was considering an amendment to Section 133 of the Utilities Commission Act ("the Act") so that participant assistance could be implemented for hearings conducted by the Commission; and
- B. In a May 17, 1993 News Release, MEMPR announced that the Commission would be able to assist public interest groups with some of the costs associated with regulatory proceedings and public reviews with legislation being made retroactive to April 1, 1993; and
- C. On June 18, 1993 legislative approval was given to participant funding with changes to Section 133 of the Act to allow for the payment of participant costs; and
- D. On August 23, 1993 the Commission released its draft policy on participant funding and asked a broad spectrum of public interest groups for comments, which were subsequently received and considered; and
- E. On November 4, 1993 the Commission issued a new draft policy on participant funding, taking into account the previous responses to its first draft policy issued in August 1993. The Commission indicated to the public interest groups that a final policy on participant funding should be in place prior to the next series of public hearings before it; and
- F. The Commission has reviewed the draft policy, comments from special interest groups and requires that the policy on participant funding be implemented.

**NOW THEREFORE** the Commission orders as follows:

Pursuant to Section 133.1 of the Act, the Commission approves the policy on participant funding, attached as Appendix A to this Order, effective April 1, 1993.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 9th day of December, 1993.

BY ORDER

Dr. Mark K. Jaccard  
Chairperson

**British Columbia Utilities Commission  
Participant Funding  
Section 133.1 of the Utilities Commission Act**

**1. Criteria to Establish Awards**

In determining an award of all or a portion of costs, the Commission will consider the following:

- (i) Does the participant represent a substantial interest in the proceeding and will the participant be affected by the outcome?
- (ii) Has the participant contributed to a better understanding of the issues by the Commission?
- (iii) Are the costs incurred by the participant for the purposes of participating in the proceeding fair and reasonable?
- (iv) Does the participant have access to other sources of financial assistance or funding? Without the award, would the participant be able to participate effectively in the proceeding?
- (v) Has the participant joined with other groups with similar interests to reduce costs?
- (vi) Any other matter appropriate in the circumstances.

When making cost awards under Section 133.1(2) of the Act, the Commission will also consider the Commission approved budget for participant funding.

**2. Application for a Cost Award**

A proceeding begins when the Commission orders a hearing or an inquiry and ends with the conclusion of that process. A participant in a proceeding must submit a budget of proposed hearing costs at least 30 days before the start of a hearing. The participant's budget must set out all costs that are justifiable in the cost award application and those the party expects to incur during the course of the proceeding. The Commission staff will review the budget and provide comments regarding the reasonableness of the proposed costs.

- (i) An application for a cost award shall be made by filing a written application with the Commission panel within thirty days following the last hearing day (or such time as the Commission panel directs) setting out the reasons for such an award.

A party applying for costs should address its eligibility considering Section 1 of the Policy and reasons why costs should be awarded. The application should be supported by a statement of costs with the appropriate receipts and invoices together with a sworn affidavit.

- (ii) The Commission panel will review the application and statement of costs. It may require further supporting documents from the party seeking costs.
- (iii) The Commission panel may distribute the application to parties the Commission judges to be affected, and invite their comments by written or oral submissions by a specified date.
- (iv) The Commission panel shall determine the entitlement to a full or partial award taking into account the criteria established in Section 1 of the Policy.

- (v) The costs are to be awarded by order no later than two months after the hearing Decision has been issued.
- (vi) Once in receipt of the Commission panel's Decision on the award, an affected party may seek a reconsideration but must file its application within ten working days.

### **3. Interim Award**

The Commission panel may approve the consultant's costs of a participant under an accelerated approval process. Reimbursement will be provided once an invoice or receipt is received from the participant by the Commission panel and the regulatory proceeding has begun. The participant would also be required to file an application under Section 2 of the Policy at the conclusion of the hearing.

### **4. Costs Eligible for Reimbursement**

The following reasonable expenses are eligible for participant assistance:

- a. Loss of Wages

An individual who has incurred a wage or salary loss as a result of participating in a hearing may recover a wage loss up to \$175 per day if the participation is not considered a function of normal employment.

- b. Legal Fees

The Commission panel will consider factors such as experience before regulatory tribunals, complexity of the issue and overall conduct of the counsel in determining an appropriate contribution or partial award towards legal costs.

- c. Expert Consultants

The consultants hourly rate will be compared to the fee schedule of professional organizations such as the Association of Professional Engineers and Geoscientists of the Province of British Columbia and the Canadian Association of Management. In each case the expert's resume must be provided and the application reviewed considering the quality of service rendered.

- d. Disbursements

Disbursements directly related to the participant's participation in the hearing will be allowed. Payment may be up to BCGEU rates applicable to the Regulatory Affairs staff of the Commission for travel, accommodation and meals etc.

- e. Child Care

Child care (when such expenses are incurred for the purpose of participating) may be allowed to a maximum of \$50.00 per day. Only child care expenses may be claimed.

f. Goods and Services Tax (GST)

The participants will be compensated for GST they actually pay on reasonable costs which cannot be reclaimed under the provisions of the GST.

g. Other costs

Costs which the Commission panel may deem as reasonable.