



LETTER NO. L-54-95

ROBERT J. PELLATT
COMMISSION SECRETARY

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VIA FACSIMILE

November 20, 1995

Mr. Dermot Foley
Case Manager
BC Energy Coalition
407 - 884 Bute Street
Vancouver, B.C.
V6E 2Y5

Dear Mr. Foley:

Re: BC Energy Coalition
Participant Funding for Generic System Extension Hearing

In your letter of October 4, 1995, you applied for participant funding for both the generic system extension hearing and the BC Gas 1996-98 Revenue Requirements Application. The letter states that the Coalition is requesting a modest amount of participant funding to cover preparation time for yourself and for the Coalition's legal counsel, and notes that the BCUC has not ordinarily awarded costs for preparation by other than technical experts.

Although your letter makes a distinction between "participant funding" and a "cost award" in your application, I should point out that the Utilities Commission Act makes no distinction in terminology and refers to funding under either section simply as paying "...all or part of the costs..." of a participant. The basis of your request for "participant funding" appears to be a request for funding from the Commission's funds under Section 133.1(2) of the Utilities Commission Act, since the Commission has in the past allowed awards under subsection (2) to include preparation time. Presumably your application does not request funding for preparation time for yourself and counsel under Section 133.1(1), which has generally been referred to as a "cost award" in the past, because, until recently, the Commission typically had not granted "cost awards" under subsection (1) for such costs. This practice has however, changed in some recent hearings, and the Commission has awarded costs of preparation time for non-witnesses. Some recent examples of awards for costs for non-witness preparation time under either subsection (1) or (2) include Phase II of the B.C. Hydro Reconsideration Hearing, the Kemano Completion Project Review and the Electricity Market Structure Review.

Staff have taken your application forward to the Commission for guidance and understand the following. First, the Commission wishes to encourage parties to apply under Section 133.1(1), except for those proceedings where applications under Section 133.1(2) are specifically encouraged. Second, on the basis of its experience, the Commission recognizes value related to effective preparation time. This has been shown in the recent Decisions mentioned above.

Consistent with past practice, the consideration of applications whether under subsection (1) or (2) will remain subject to after-the-fact evaluation of the value which the participation of the applicant for costs has brought to the proceeding. Moreover, decisions on cost awards will continue to be made by the Commission panel following the hearing, not by Commission staff, and will continue to be generally guided by the criteria set out in Order No. G-117-93.

Finally, the Commission wishes to note that as regulatory processes evolve, an example being the increased reliance on Alternative Dispute Resolution, the Commission's policies and practices concerning cost awards must also be adapted. The Commission intends to carry out the necessary reviews and modifications regarding cost awards as circumstances warrant.

As this letter is intended to clarify the evolution of the Commission's practice with respect to cost awards, it is being circulated to all intervenors.

Yours truly,

A handwritten signature in black ink, appearing to read 'R. Pellatt', with a stylized flourish at the end.

Robert J. Pellatt

JWF/mmc

cc: Participants in the Generic System Extension Hearing