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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-3-07**

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**IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473
and**

**Applications for Participant Assistance/Cost Awards
in an Application by British Columbia Hydro and Power Authority
for the Review of the Fiscal 2007 and Fiscal 2008 Revenue Requirements Application**

BEFORE: R.H. Hobbs, Chair
N.F. Nicholls, Commissioner
A.J. Pullman, Commissioner
January 24, 2007

O R D E R

WHEREAS:

- A. On November 10, 2006, the British Columbia Utilities Commission (the "Commission") issued Order No. G-143-06 wherein it approved the Negotiated Settlement Agreement dated November 2, 2006, in respect of British Columbia Hydro and Power Authority's ("BC Hydro") Fiscal 2007 and Fiscal 2008 Revenue Requirements Application ("F07/08 RRA"); and
- B. The Commission Panel established a funding cap of \$950,000 for Participant Assistance/Cost Award ("PACA") funding for participation in the F07/08 RRA proceeding; and
- C. On November 21, 2006, the British Columbia Old Age Pensioners' Organization et al. ("BCOAPO") applied for a PACA for its participation in the F07/08 RRA proceeding; and
- D. On November 20, 2006, the Sierra Club of Canada (BC Chapter) et al. ("SCCBC") applied for a PACA for its participation in the F07/08 RRA proceeding; and
- E. On December 1, 2006, the Commercial Energy Consumers Association of British Columbia ("CEC") applied for a PACA for its participation in the F07/08 RRA proceeding; and
- F. On December 6, 2006, Mr. Alan Wait ("Wait") applied for a PACA for his participation in the F07/08 RRA proceeding; and
- G. On December 7, 2006, the Haisla Nation ("Haisla") applied for a PACA for its participation in the F07/08 RRA proceeding; and
- H. On December 8, 2006, the Independent Power Producers Association of British Columbia ("IPPBC"), applied for a PACA for its participation in the F07/08 RRA proceeding; and

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- I. On December 8, 2006, Energy Solutions for Vancouver Island (“ESVI”) applied for a PACA for its participation in the F07/08 RRA proceeding; and
- J. On December 9, 2006, the Joint Industry Electricity Steering Committee (“JIESC”) applied for a PACA for its participation in the F07/08 RRA proceeding; and
- K. On January 4, 2007, BC Hydro provided its comments on the PACA applications submitted and stated that BC Hydro leaves it to the Commission’s discretion as to the level of cost awards to be made and has no specific comments on any one of the applications received; and
- L. The Commission Panel has reviewed the PACA applications with regard to the criteria and rates set out in the Guidelines in Commission Order No. G-15-04, and has concluded that, after making a number of changes to the amounts of funding requested as set out in the Reasons for Decision attached as Appendix A to this Order, certain cost awards should be approved for participants in the F07/08 RRA proceeding.

NOW THEREFORE the Commission orders as follows:

1. Pursuant to Section 118(1) of the Utilities Commission Act, the Commission awards funds to the following for their participation in the F07/08 RRA proceeding:

	<u>Application</u>	<u>Award</u>
BCOAPO	\$73,785.45	\$72,294.82
SCCBC	49,501.41	7,479.72
CEC	60,337.82	60,337.82
Wait	1,681.59	1,681.59
Haisla	8,585.00	--
IPPBC	64,086.00	49,246.00
ESVI	7,900.00	268.00
JIESC	95,016.00	95,016.00
TOTAL	<u>\$360,893.27</u>	<u>\$286,323.95</u>

2. BC Hydro is directed to reimburse the above noted participants for the total amounts awarded in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 24th day of January 2007.

BY ORDER

Original signed by:

Robert H. Hobbs
Chair

Attachment

**British Columbia Hydro and Power Authority
F2007 and F2008 Revenue Requirements Application**

Participant Assistance/Cost Award Applications

REASONS FOR DECISION

1.0 INTRODUCTION

On November 10, 2006, the British Columbia Utilities Commission (the “Commission”) issued Order No. G-143-06 wherein it approved the Negotiated Settlement Agreement, dated November 2, 2006, in respect of British Columbia Hydro and Power Authority’s (“BC Hydro”) Fiscal 2007 and Fiscal 2008 Revenue Requirements Application (“F07/08 RRA”).

As set out in the Order that accompanies these Reasons, the Commission received eight applications pursuant to Section 118 of the Utilities Commission Act for Participant Assistance/Cost Award (“PACA”) funding for the F07/08 RRA proceeding. The PACA cost awards requested in the applications total \$360,893.27.

Section 118 provides that the Commission Panel may make cost awards for participation in a proceeding. The Commission’s PACA Guidelines are set out in Appendix A to Order No. G-15-04, and state:

“In determining an award of all or any portion of a Participant’s costs, the Commission panel 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. Has the Participant joined with other groups with similar interests to reduce costs?
- v. Any other matters appropriate in the circumstances.

If the Commission panel considers it to be an appropriate consideration in a proceeding, the Commission panel may consider the Participant’s ability to participate in the proceeding without an award.”

The Commission Panel for the F07/08 RRA proceeding established a PACA funding cap of \$950,000 for the proceeding. Participants who filed PACA budgets were informed of the PACA cap.

2.0 PROCEEDING AND PREPARATION DAYS

Section 4 of the PACA Guidelines state that proceeding days may include workshop days, negotiation days, pre-hearing conference days, and hearing days; and that the Commission Panel may award costs for preparation days, typically on a ratio of up to two preparation days per proceeding day.

Maximum daily costs for legal counsel and consultants are based on an eight hour day and are to be prorated for part days. The Commission Panel's determination of the number of prorated proceeding days is as follows:

	PRORATED PROCEEDING DAYS
Procedural Conference No. 1	0.5
Procedural Conference No. 2	0.5
Procedural Conference No. 3	0.5
Technical Workshop – RRA Model	0.5
Negotiated Settlement Process (“NSP”)	3.0
Total	5.0

The Commission Panel finds that Intervenors reimbursed for participating in Procedural Conferences No. 1, 2, and 3 will not be reimbursed for those proceeding days in the BC Hydro 2006 Integrated Electricity Plan and Long-Term Acquisition Plan (“2006 IEP/LTAP”) proceeding. The Commission Panel notes under the PACA Guidelines for the F07/08 RRA proceeding that costs would generally be awarded on a ratio of two preparation days for each proceeding day, which results in 15 days as the maximum number of days that typically may receive funding. The Commission Panel recognizes that the anticipated Oral Hearing proceeding days to review the F07/08 RRA did not occur and were instead replaced by the three NSP days. Therefore, the Commission Panel determines that a reasonable amount of additional days (proceeding and preparation) beyond the 15 days indicated by the PACA Guidelines are warranted for the review of the F07/08 RRA.

3.0 PACA APPLICATIONS

The Commission received eight applications summarized in the table below.

	<u>Application</u>
British Columbia Old Age Pensioners' Organization, et al ("BCOAPO")	\$73,785.45
Sierra Club of Canada (BC Chapter), et al ("SCCBC")	49,501.41
Commercial Energy Consumers Association of British Columbia	60,337.82
Mr. Alan Wait	1,681.59
The Haisla Nation ("Haisla")	8,585.00
Independent Power Producers Association of British Columbia ("IPPBC")	64,086.00
Energy Solutions for Vancouver Island ("ESVI")	7,900.00
Joint Industry Electricity Steering Committee	95,016.00
TOTAL	<u>\$360,893.27</u>

4.0 ADJUSTMENTS TO INDIVIDUAL PACA APPLICATION AMOUNTS

The Commission Panel has reviewed the eight PACA applications. The Commission Panel determines that the following reductions will be made to the amounts of cost awards requested in five of the applications:

BCOAPO

BCOAPO claims a Bill of Cost for the amount of \$73,785.45 (including GST). The Bill of Cost is based on a total of 20 days (proceeding and preparation) for legal counsel and 28.125 days (proceeding and preparation) for the consultant. The total days for each of legal counsel and the consultant exceed the maximum PACA Guidelines cap of 15 days but are accepted. The BCOAPO daily rate of \$1,250 for the consultant exceeds the rate per the PACA Guidelines of \$1,200 for 10+ years of related experience. The \$50 adjustment to the consultant's daily rate results in a downward adjustment to the Bill of Cost in the amount of \$1,490.63 (\$50/day x 28.125 days plus 6% GST). The BCOAPO adjusted cost award amount is \$72,294.82.

SCCBC

SCCBC claims a Bill of Cost for the amount of \$49,501.41 (including PST and GST). The Bill of Cost is based on a total of 15.6 days (proceeding and preparation) for legal counsel, 10.625 days (proceeding and preparation) for the case manager, and 9.55 days (proceeding and preparation) for the expert consultants. The daily rates for legal counsel at \$1,710, the case manager at \$480, and the expert witness consultant at \$1,400 are consistent with the PACA Guidelines.

However, the Commission Panel is of the view that SCCBC should be awarded costs for attendance at only the first two Procedural Conferences, which were joint Procedural Conferences dealing with both the F07/08 RRA and the 2006 IEP/LTAP. Commission Order No. G-96-06 issued on August 3, 2006 after the Procedural Conference No. 2 established separate processes for the F07/08 RRA and the 2006 IEP/LTAP. The Commission Panel determines the demand side management (“DSM”) issues raised by SCCBC do not represent substantial issues in the F07/08 RRA proceeding. The total days (proceeding and preparation) allowed for SCCBC is three days (1 proceeding day and 2 preparation days) for each of the legal counsel and case manager. The allowed legal counsel award is \$5,796.90 (\$1,710/day for legal counsel x 3 days plus 7% PST and 6% GST). The allowed case manager award including expenses is \$1,682.82 (\$480/day for case manager x 3 days plus \$242.82 of expenses). The SCCBC adjusted cost award amount is \$7,479.72.

Haisla Nation

The Haisla submitted a Budget and Bill of Cost for the amount of \$8,585.00. The Haisla notes that it did not submit a Budget for its participation in the F07/08 RRA proceeding at an earlier date as it registered as an Intervenor after the deadline for submitting a budget estimate. After considering the matter, the Commission Panel is of the view that the First Nation issues raised by the Haisla do not represent substantial issues in the F07/08 RRA proceeding. Therefore, the Commission Panel denies the Haisla’s application for a cost award in the F07/08 RRA proceeding.

IPPBC

IPPBC claims a Bill of Cost for the amount of \$64,086.00 (including PST and GST). The Bill of Cost is based on a total of 20 days (proceeding and preparation) for legal counsel and 20 days (proceeding and preparation) for two consultants. The total days for each of legal counsel and the two consultants exceed the maximum PACA Guidelines cap of 15 days but are accepted. IPPBC claims the daily rates for legal counsel at \$1,710 and for the two consultants (Mr. Weimer and Mr. Davis) at \$1,200. IPPBC did not provide resumes for the two consultants

to establish the consultants' 10+ years of related experience at the \$1,200 daily fee. The Commission Panel is of the view that the 20 days provided by the two consultants should be awarded at the case manager rate of \$500 per day. The Commission Panel concludes that the requested cost award for the consultants should be reduced by \$700 per day (\$1,200 - \$500) resulting in a reduction including GST of \$14,840.00 (\$700/day x 20 days plus 6% GST). The IPPBC adjusted cost award amount is \$49,246.00.

ESVI

ESVI claims a Bill of Cost for the amount of \$7,900.00 (including GST). The Bill of Cost is based on a total of 12 days (proceeding and preparation) for the consultant plus expenses. After considering the matter, the Commission Panel is of the view that the AMI Project, DSM and time of use rates issues raised by ESVI do not represent substantial issues in the F07/08 RRA proceeding. Therefore, the Commission Panel allows ESVI a cost award for out of pocket expenses only in the amount of \$268.00.