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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** F-15-07

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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 Award Funding
in an Application by FortisBC Inc.
for a Certificate of Public Convenience and Necessity
for the Ellison Substation Project**

BEFORE: L.F. Kelsey, Commissioner
L.A. O'Hara, Commissioner August 15, 2007

O R D E R

WHEREAS:

- A. On April 28, 2007, Mr. Kelly A. Cairns submitted an application for Participant/Cost Award ("PACA") funding on behalf of the Concerned Citizens of Quail Ridge and Lochrem Road ("CCQRLR") for their participation in the proceeding (the "Proceeding") to review the application by FortisBC Inc. ("FortisBC") for a Certificate of Public Convenience and Necessity for the Ellison Substation Project; and
- B. On May 6, 2007, Mr. William J. Andrews submitted an application for PACA funding on behalf of the Quail Ridge Residents Association ("QRRA") for its participation in the proceeding; and
- C. By Order No. C-4-07, dated May 10, 2007 and related Reasons for Decision issued on June 13, 2007, the Commission issued its Decision on the FortisBC application for the Ellison Substation Project; and
- D. By letter dated June 25, 2007, FortisBC stated it has no comments on the applications for PACA funding; and

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E. 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 for the Reasons for Decision that are set out in Appendix B to this Order, certain cost awards should be approved for participants in the 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 Ellison Substation Project Proceeding:

| | <u>Application</u> | <u>Award</u> |
|--------------|---------------------------|---------------------------|
| CCQRLA | \$32,969.87 | \$14,137.80 |
| QRRRA | <u>26,950.96</u> | <u>16,712.71</u> |
| TOTAL | <u>\$59,920.83</u> | <u>\$30,850.51</u> |

2. FortisBC 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 16th day of August 2007.

BY ORDER

Original signed by

L.F. Kelsey
Commissioner

Attachment

**An Application by FortisBC Inc.
for a Certificate of Public Convenience and Necessity
for the Ellison Substation Project**

| | | | |
|--------|--------------|------------------------------------------|--------------------|
| QRRRA | Counsel | $\$1710 \times 2 \times 4 \times 1.13 =$ | \$15,458.40 |
| | Disbursement | | <u>1,254.310</u> |
| | | | \$16,712.71 |
| CCQRLR | Counsel | $\$1710 \times 2 \times 3 \times 1.13 =$ | \$11,593.80 |
| | Consultant | $\$1200 \times 2 \times 1.06 =$ | <u>2,544.00</u> |
| | | | \$14,137.80 |

FortisBC Inc.
Certificate of Public Convenience and Necessity Application
for the Ellison Substation Project

Participant Assistance/Cost award Applications

REASONS FOR DECISION

1.0 INTRODUCTION

On May 10, 2007 the British Columbia Utilities Commission (the “Commission”) issued Order No. C-4-07 and related Reasons for Decision wherein it approved the FortisBC Application for the Ellison Substation Project.

The Commission received two applications pursuant to section 118 of the Utilities Commission Act for Participant Assistance/Cost Award (“PACA”) funding for the Ellison Substation CPCN proceeding. The PACA cost awards requested in the applications total \$59,920.83.

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.”

2.0 PROCEEDING AND PREPARATION DAYS

Section 4 of the PACA Guidelines state that the proceeding days may include workshop days, negotiation days, pre-hearing conference days, 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:

| | <u>Prorated Proceeding Days</u> |
|------------------------|-------------------------------------|
| Workshop | 0.5 |
| Pre-hearing Conference | 0.5 |
| Oral Hearing | <u>1.0</u> |
| Total | 2.0 |

3.0 PACA APPLICATIONS

The Commission Panel has reviewed the two PACA Applications. The Commission Panel determines that the following reductions will be made to the amounts of the cost awards in both applications:

Quail Ridge Residents Association ("QRRR")

The QRRR applied for reimbursement of \$26,950.96. The QRRR request exceeds the typical two preparation day guideline; however, QRRR submits that to have reduced the effort level of Counsel would have substantially diminished the efficiency with which the hearing was conducted. The Commission Panel agrees with this position. In addition, QRRR Counsel was required to deal with an issue unique to QRRR, the disposition of Feeder 4.

For these reasons, the **Commission Panel awards QRRR reimbursement of costs based on the established Guidelines but for three preparation days for each proceeding day plus the time attributable to the proceeding days. In addition disbursements of \$1,254.31 are awarded.**

The total award is \$16,712.71

Concerned Citizens of Quail Ridge and Lochrem Road (“CCQRLR”)

The CCQRLR applied for reimbursement of \$32,969.87. The CCQRLR request exceeds the two preparation day guideline. The Commission Panel is of the view that while CCQRLR did contribute to the hearing, CCQRLR did not contribute in a unique or special way to a better understanding of the issues before it. Nor did CCQRLR provide significant evidence on alternative siting opportunities as had been contemplated in its submission at the Pre Hearing Conference where CCQRLR called for a postponement of the scheduled date for the Oral Hearing so as to retain several experts to “inform the debate here with expert testimony in order to provide some intelligent options for the applicant's proposed site” (T1:36). In fact as noted in the Decision at page 3 “The Commission Panel believes that Intervenors also contributed to the delays by requesting extensions to the proceeding schedule and not delivering on intentions to file evidence on siting alternatives”.

The Commission Panel notes that by way of a letter dated January 12, 2007, Commission staff advised Mr. Cairns, Counsel for CCQRLR that the budgeted Counsel time exceeds staff’s current estimate of the number of days that are eligible for funding and expressed concern that CCQRLR is at serious risk of not receiving funding at the full amount set out in its budget. **The Commission Panel is not persuaded that an award above two preparation days for each proceeding day plus the time attributable to the proceeding should be approved. In addition, the daily rate for Counsel exceeds the Guidelines and has been reduced to \$1,710.00 per day. CCQRLR retained a consultant for two days. The daily rate claimed exceeds the Guidelines and has been reduced to \$1,200.00 per day.**

The total award for Counsel and Consultant is \$14,137.00.