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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** F-16-07

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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 Black Mountain Substation Project**

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

O R D E R

WHEREAS:

- A. On June 11, 2007, Mr. William J. Andrews submitted an application for Participant Assistance/Cost Award ("PACA") funding on behalf of Barb and Ken Redlick and Joan Morgan (the "Property Owners") 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 Black Mountain Substation Project; and
- B. On July 8, 2007, Mr. Kelly A. Cairns submitted an application for PACA funding on behalf of the Regional District of Central Okanagan for its participation in the Proceeding; and
- C. By Order No. C-7-07 dated July 9, 2007, the Commission issued its Decision on the FortisBC application for the Black Mountain Substation Project; and
- D. By letter dated August 2, 2007, FortisBC stated that it does not dispute the parties' eligibility for participant funding and does not oppose the cost award application; and
- 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

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to 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 Black Mountain Substation Project Proceeding:

	<u>Application</u>	<u>Award</u>
Property Owners	\$10,763.32	\$10,763.32
Regional District of Central Okanagan	<u>18,432.34</u>	<u>5,892.16</u>
TOTAL	<u>\$29,195.66</u>	<u>\$16,655.48</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

Attachments

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

RDCO	Counsel	$\$1,710 \times (1.5 + 4) \times 1.13 \times .5 =$	\$5,313.82
	Disbursements		578.34
			<hr/>
			\$5,892.16

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

Participant Assistance/Cost award Applications

REASONS FOR DECISION

1.0 INTRODUCTION

On July 9, 2007 the British Columbia Utilities Commission (the “Commission”) issued Order No. C-7-07 and related Reasons for Decision wherein it approved the FortisBC Application for the Black Mountain 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 Black Mountain Substation CPCN proceeding. The PACA cost awards requested in the applications total \$29,195.66.

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>
Pre-hearing Conference	1.0
Oral Hearing	0.5
Total	1.5

For purposes of calculating preparation days the Oral Hearing counts as one full day.

3.0 PACA APPLICATIONS

The Commission Panel has reviewed the two PACA Applications. One application, on behalf of adjacent property owners falls within the Guidelines and is approved as submitted at \$10,763.32. The Commission Panel determines that the following reductions will be made to the amounts of the cost award in the other application:

Regional District of Central Okanagan ("RDCO")

The RDCO, in its application for a participant cost award, submits that it is eligible because it is a directly affected land owner and it could easily have been spared the legal expense associated with intervening in this Application if FortisBC had simply made contact with the RDCO and made the same site visits that lead to the new location of Feeder 3. As stated above, typically a municipality, or in this case the RDCO would not be eligible for a cost award however the Commission Panel is persuaded that the circumstances which caused the RDCO to intervene in this matter are somewhat unusual. However, following the filing of an alternative route for Feeder 3 by FortisBC, RDCO's active intervention in this proceeding could have concluded. For these reasons **the Commission Panel awards one half of the award which would otherwise, under the Guidelines, be awarded to an eligible Intervenor. In this case a full allowance would be four preparation days, a day for the Pre-hearing Conference and one half day for the Hearing all at the approved rate for Counsel of**

\$1,710.00 per day. Full reimbursement of disbursements in the amount of \$578.34 is approved. The total award is \$5,892.16.

The RDCO argues that these costs should not be borne by ratepayers but by FortisBC itself because the consultation that could have avoided this conflict was fast, cheap, and obvious. The Commission Panel has not considered this argument because, in its view, section 118 of the UCA does not provide the means to accomplish this.