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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER F-13-08**

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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 a filing by British Columbia Hydro and Power Authority  
of the 2007 Electricity Purchase Agreement with Alcan Inc.  
as an Energy Supply Contract Pursuant to Section 71**

**BEFORE:** R.H. Hobbs, Chair  
A.J. Pullman, Commissioner March 19, 2008  
N.F. Nicholls, Commissioner

**O R D E R**

**WHEREAS:**

- A. On September 5, 2007, British Columbia Hydro and Power Authority ("BC Hydro") filed with the British Columbia Utilities Commission (the "Commission") pursuant to section 71 of the Utilities Commission Act (the "Act") the 2007 Electricity Purchase Agreement between Alcan Inc. ("Alcan") and BC Hydro dated August 13, 2007, and by a letter dated October 24, 2007, Alcan and BC Hydro amended the agreement (as amended, the "2007 EPA"); and
- B. By letter dated November 6, 2007, the Commission granted an Interim Award for Participant Assistance/Cost Award ("PACA") funding to Janice G.A.E. Switlo on behalf of the Haisla Hereditary Chiefs ("HHC"), in the amount of \$1,515.30; and
- C. By letter dated January 8, 2008, Janice G.A.E. Switlo made a further application for PACA funding on behalf of the HHC for their participation in the proceeding; and
- D. By Order No. E-3-08 and Decision dated January 29, 2008, the Commission accepted the 2007 EPA as filed by BC Hydro, as an energy supply contract pursuant to section 71 of the Act and as a rate pursuant to section 61(1) of the Act with respect to the delivery of energy to Alcan as part of coordination services arrangements; and
- E. On December 15, 2007, the Canadian Auto Workers, Local 2301 ("CAW") applied for a PACA for its participation in the proceeding; and
- F. On January 16, 2008, the BC Sustainable Energy Association, Sierra Club of Canada, B.C. Chapter, and Peace Valley Environment Association ("BCSEA *et al.*") applied for a PACA for its participation in the proceeding; and

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- G. On February 5, 2008, the Independent Power Producers Association of British Columbia (“IPPBC”) applied for a PACA for its participation in the proceeding; and
- H. On February 7, 2008, the British Columbia Old Age Pensioners’ Organization *et al.* (“BCOAPO”) applied for a PACA for its participation in the proceeding and on February 8, 2008 amended its application; and
- I. By letters dated February 5, February 21 and February 26, 2008 to the Commission, BC Hydro commented on the cost award applications; and
- J. The Commission has reviewed the PACA applications with regard to the criteria and rates set out in the Guidelines in Commission Order No. G-72-07 and has concluded that, after making certain changes to the amounts of funding requested, certain cost awards should be approved for participants in the proceeding, as set out in the Reasons for Decision that are attached as Appendix A to this Order.

**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 proceeding.

	<u>Application</u>	<u>Award</u>	<u>Remaining Payable</u>
HHC	\$52,449.89	\$10,910.80	\$9,395.50
BCSEA <i>et al.</i>	36,947.67	0	0
CAW	6,682.89	6,682.89	6,682.89
IPPBC	58,863.00	0	0
BCOAPO	48,678.21	38,020.71	38,020.71

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

**DATED** at the City of Vancouver, in the Province of British Columbia, this 19<sup>th</sup> day of March 2008.

BY ORDER

*Original signed by*

Robert H. Hobbs  
Chair

Attachment

Applications for Participant Assistance/Cost Awards  
in a filing by British Columbia Hydro and Power Authority  
of the 2007 Electricity Purchase Agreement with Alcan Inc.  
as an Energy Supply Contract Pursuant to Section 71

**REASONS FOR DECISION**

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**1.0 INTRODUCTION**

On September 5, 2007, British Columbia Hydro and Power Authority (“BC Hydro”) filed with the British Columbia Utilities Commission (the “Commission”) pursuant to section 71 of the Utilities Commission Act (the “Act”) the 2007 Electricity Purchase Agreement between Alcan Inc. (“Alcan”) and BC Hydro dated August 13, 2007, and by a letter dated October 24, 2007, Alcan and BC Hydro amended the agreement (as amended, the “2007 EPA”).

By Order No. E-3-08 and Decision dated January 29, 2008, the Commission accepted the 2007 EPA as filed by BC Hydro, as an energy supply contract pursuant to section 71 of the Act and as a rate pursuant to section 61(1) of the Act with respect to the delivery of energy to Alcan as part of coordination services arrangements.

By letter dated November 6, 2007, the Commission granted an Interim Award for Participant Assistance/Cost Award (“PACA”) funding to Janice G.A.E. Switlo on behalf of the Haisla Hereditary Chiefs (“HHC”), in the amount of \$1,515.30.

As set out in the Order that accompanies these Reasons for Decision, the Commission received five applications pursuant to Section 118 of the Utilities Commission Act for Participant Assistance/Cost Award (“PACA”) funding for the 2007 EPA proceeding. Section 118 provides that the Commission Panel may make cost awards for participants in a proceeding. The Commission’s PACA Guidelines are set out in Appendix A to Order No. G-72-07, and state:

“The Commission Panel will determine whether a Participant is eligible or ineligible for an award. In determining an award of all or any portion of a Participant’s costs, the Commission Panel will first consider whether the Participant has a substantial interest in a substantial issue in the proceeding. If this criterion is not met, the Participant will typically not receive a cost award except, possibly, for out-of-pocket disbursements.

Except in limited circumstances, it is expected that only ratepayer groups will establish a ‘substantial interest in a substantial issue’ so as to be eligible for an award in a revenue requirements proceeding. For the purposes of this section, the principal interest of ‘ratepayer groups’ will be the rate impacts of the revenue requirement to be paid by the ratepayer Participants. The Commission Panel will also consider other characteristics of the Participant, including the scope and significance of the principal concerns of the Participant.

Participants other than ‘ratepayer groups’ may be eligible for funding in energy supply contract, rate design, resource plan, and CPCN proceedings provided that the Participant meets the ‘substantial interest in a substantial issue’ criterion.

The Commission Panel will then consider the following:

- (i) 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) Has the Participant engaged in any conduct that tended to unnecessarily lengthen the duration of the proceeding? (This criterion will not, by itself, disqualify a Participant for pursuing a relevant position in good faith and with reasonable diligence)
- (vi) 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 proceeding days may include workshop days, negotiation days, pre-hearing conference days, hearing days and oral argument 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.

The Commission Panel has determined that the maximum number of days eligible for reimbursement is 19.5, which is comprised of 6.5 proceeding days and 13.0 preparation days.

## **3.0 PACA APPLICATIONS**

The Commission received PACA applications from HHC, BC Sustainable Energy Association, Sierra Club of Canada, B.C. Chapter, and Peace Valley Environment Association ("BCSEA *et al.*"), Canadian Auto Workers, Local 2301 ("CAW"), Independent Power Producers Association of British Columbia ("IPPBC"), and British Columbia Old Age Pensioners' Organization *et al.* ("BCOAPO"). The five applications are summarized in the following table.

	<u>Application</u>
HHC	\$52,449.89
BCSEA <i>et al.</i>	36,947.67
CAW	6,682.89
IPPBC	58,863.00
BCOAPO	48,678.21

#### 4.0 INDIVIDUAL PACA AWARD AMOUNTS

The Commission Panel has reviewed the PACA applications and determines that the following amounts of cost awards are awarded to participants in the 2007 EPA proceeding.

##### HHC

HHC represents a substantial interest in the issues raised by the Carrier Sekani Tribal Council (“CSTC”) regarding the scoping order, and a more tenuous interest in certain matters related to the cost-effectiveness of the 2007 EPA. In the specific circumstances of this proceeding, the HHC is eligible for a PACA award.

HHC participated actively in the proceeding, but often strayed into areas that were outside the scope of the proceeding, and contributed little to the Commission’s understanding of most of the relevant issues. Therefore, the HHC consultant’s fees will be reimbursed for two hearing days plus four preparation days at a rate of \$1250/day, for participation in the CSTC issues. The eligible daily rate is that of a consultant with more than ten years related experience rather than an expert witness/specialist. Switlo fees =  $6 \times \$1250 \times 1.05 = \$7,875.00$ .

The consultant’s travel, accommodation and meal expenses, in the amount of \$1,520.50, are eligible for reimbursement. An advance award of \$1,515.30 for travel expenses for Mr. Williams and Mr. Robinson was previously paid, and will stand without adjustment.

##### BCSEA et al.

BCSEA et al. is comprised of the BC Sustainable Energy Association (“BCSEA”), Sierra Club of Canada, B.C. Chapter (“SCCBC”), and Peace Valley Environment Association (“PVEA”). According to the PACA application, “BCSEA’s goals include sustainable energy, energy efficiency and energy conservation”, none of which were substantial issues in this proceeding. SCCBC “focuses on a broad range of environmental issues”, but environmental issues were not substantial issues in this proceeding. PVEA is “dedicated to preserving and protecting the Peace River Valley and its watershed”, which are clearly not affected by the 2007 EPA. Therefore, BCSEA et al. does not represent a substantial interest in a substantial issue in this proceeding. BCSEA et al. is not eligible for a PACA award.

##### CAW

The CAW was as active participant in the proceeding and will receive a cost award for out-of-pocket disbursements of \$6,682.89 as itemized in its PACA application letter.

##### IPPBC

IPPBC focused on features of the 2007 EPA that might be applicable to future contracts between IPPs and BC Hydro, matters which were not substantial issues in this proceeding. IPPBC did not contribute to the Commission’s understanding of the key issues in this proceeding and, in fact, took no position on the cost effectiveness analysis or on whether the 2007 EPA is in the public interest. IPPBC does not represent a substantial interest in a substantial issue in this proceeding and is not eligible for a PACA award.

##### BCOAPO

BCOAPO is a ratepayer group, with members that will be affected by the price paid for electricity under the 2007 EPA and have a substantial interest in its cost-effectiveness. BCOAPO meets the criterion of having a substantial interest in a substantial issue in this proceeding and participated actively in the proceeding.

After making a small adjustment to the number of eligible days to 6.5 days, BCOAPO's application is consistent with the PACA Guidelines. However, BCOAPO's contribution to a better understanding of the issues by the Commission was adversely affected by the errors made in BCOAPO's submissions. Therefore, its cost award is reduced by three days for counsel and by three days for the consultant. Counsel fees =  $(19.5 - 3.0) \times \$1,600 \times 1.12 = \$29,568$ . Fussell fees =  $(9.375 - 3.0) \times \$1250 \times 1.05 = \$8,367.19$ . Disbursements are awarded as billed.