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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** F-14-08

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

and

**An Application for Participant Assistance Cost Award
regarding an Application by British Columbia Hydro and Power Authority
Standing Offer Program – Negotiated Settlement Process**

BEFORE: A.J. Pullman, Chair May 7, 2008

O R D E R

WHEREAS:

- A. On December 14, 2007, British Columbia Hydro and Power Authority ("BC Hydro") filed pursuant to Section 45(6.1)(b) of the Utilities Commission Act (the "Act") an application for the Standing Offer Program ("SOP"); and
- B. In the Application, BC Hydro seeks an order pursuant to Section 45(6.2)(b) of the Act which determines expenditures of \$514,000 required to conduct the implementation phase of the SOP, including administration and program review for the first two years, are in the interests of persons within British Columbia who receive or may receive, service from BC Hydro; and
- C. By Order No. G-169-07, the Commission established a Regulatory Timetable for the review of the Application and a SOP Application Workshop on February 13, 2008 followed by an Negotiated Settlement Process ("NSP") on February 13, 2008; and
- D. A proposed Settlement Agreement was agreed to by BC Hydro and some Intervenors, with the participation of Commission staff; and
- E. By Order No. G-43-08 dated March 19, 2008, the Commission approved the Settlement Agreement and expenditures of \$514,000 required for BC Hydro to conduct the implementation phase of the SOP; and
- F. By letter dated March 31, 2008, the British Columbia Public Interest Advocacy Centre applied for a cost award on behalf of the BC Old Age Pensioners Organization *et al.* ("BCOAPO") for its participation in the proceeding; and
- G. By letter dated April 4, 2008, the Independent Power Producers Association of British Columbia ("IPPBC") applied for a cost award for its participation in the proceeding); and

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- H. By letter dated April 4, 2008, the British Columbia Sustainable Energy Association, Sierra Club of Canada (BC Chapter), and Peace Valley Environment Association, (BCSEA *et al*”) applied for a cost award for its participation in the proceeding; and
- I. By letter dated April 16, 2008, Commercial Energy Consumers Association of British Columbia (“CEC”) applied for a cost award for its participation in the proceeding; and
- J. By letter dated April 16, 2008, Joint Industry Electricity Steering Committee (“JIESC”) applied for a cost award for its participation in the proceeding; and
- K. Commission staff have advised the Commission Panel that the Applicants participated in the proceeding and contributed to the settlement process; and
- L. The Commission has reviewed the applications for cost awards with regard to the criteria and rates set out in Order No. G-72-07.

NOW THEREFORE pursuant to Section 118(1) of the Utilities Commission Act, the Commission Orders as follows:

1. The Commission awards funds to the following for their participation in the BC Hydro SOP NSP.

<u>Participant</u>	<u>Application</u>	<u>Award</u>
British Columbia Sustainable Energy Association <i>et al</i>	\$6,854.40	\$6,854.40
British Columbia Old Age Pensioners’ Organization <i>et al</i>	\$13,881.88	\$13,881.88
Independent Power Producers Association of British Columbia	\$19,971.00	\$15,246.00
Joint Industry Electricity Steering Committee	\$13,366.44	\$13,366.44
Commercial Energy Consumers Association of B.C.	\$16,642.50	\$16,642.50

2. BC Hydro is directed to reimburse the Applicants for the total amounts awarded in a timely fashion.

DATED at the City of Vancouver, in the Province of British Columbia, this 7th day of May 2008.

BY ORDER

Original signed by

A.J. Pullman
Chair

Attachment

British Columbia Hydro and Power Authority
Standing Offer Program
Negotiated Settlement Process

Participant Assistance/Cost Award Applications

REASONS FOR DECISION

1.0 INTRODUCTION

The Commission issued its Decision and Order No. G-43-08 dated March 19, 2008 in response to the British Columbia Hydro and Power Authority (“BC Hydro”) Application for the Standing Offer Program (“SOP”).

As set out in the Order that accompanies these Reasons for Decision, the Commission received applications pursuant to Section 118 of the Utilities Commission Act for Participant Assistance/Cost Award (“PACA”) funding for the SOP proceeding.

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-72-07 and state:

“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.”

Pursuant to the PACA Guidelines, BC Hydro was provided with copies of the cost award applications and the opportunity to comment on them.

In a letter dated April 28, 2008 to the Commission, BC Hydro has reviewed the five applications and has no comments. BC Hydro leaves it to the Commission's discretion as to the level of cost award to be made for each application for funding.

2.0 PROCEEDING AND PREPARATION DAYS

Section 4 of the PACA Guidelines states that proceeding days may include workshop days, negotiation days, pre-hearing conference days, hearing days, and oral argument days, and will not include town hall meeting 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 partial days.

Application	Workshop Days	NSP Days	Total Proceeding Days	Preparation Days (at 2 days for each Proceeding Day)	Total Maximum number of Days for PACA Funding
SOP	0.5	2.5	3.00	6.00	9.00

Based on a ratio of two preparation days for each proceeding day, the total maximum number of days for funding for this proceeding is nine days.

3.0 PACA APPLICATIONS

The Commission received PACA applications from BC Sustainable Energy Association, Sierra Club of Canada, B.C. Chapter, and Peace Valley Environment Association ("BCSEA *et al.*"), Independent Power Producers Association of British Columbia ("IPPBC"), and British Columbia Old Age Pensioners' Organization *et al.* ("BCOAPO").

The PACA application amounts are summarized as follows:

<u>Participant</u>	<u>Amount</u>
British Columbia Old Age Pensioners' Organization <i>et al</i>	\$13,881.88
British Columbia Sustainable Energy Association <i>et al</i>	\$6,854.40
Joint Industry Electricity Steering Committee	\$13,366.44
Independent Power Producers Association of British Columbia	\$19,971.00
Commercial Energy Consumers Association of B.C.	<u>\$16,642.50</u>
Total	<u>\$83,706.04</u>

4.0 ADJUSTMENTS TO INDIVIDUAL PACA APPLICATION AMOUNTS

BCSEC

The BCSEA applied for a cost award for \$6,854.40 based on 3.4 maximum funding days and total counsel fees of \$6,854.40, all inclusive of applicable taxes.

BCSEA applied for participant funding based on 3.4 days for counsel. The daily rate used by BCSEA is \$1800 for counsel. The rate is consistent with the PACA Guidelines.

The Commission Panel considers that BCSEA was not a “ratepayer” group but that it meets the “substantial interest in a substantial issue” criterion of the PACA Guidelines.

The BCSEA *et al.* cost award amount is \$6,854.40.

BCOAPO

The BCOAPO applied for a cost award for \$13,881.88 based on 8.75 maximum funding days and total counsel fees of \$8,960, consulting fees of \$4,921.88, all inclusive of applicable taxes.

BCOAPO applied for participant funding based on five days for counsel and 3.75 days for the consultant. The daily rates used by BCOAPO are: \$1600 for counsel (averaged between the counsels, Quail and Worth), and \$1,250 for the consultant. These rates are consistent with the PACA Guidelines.

The Commission Panel notes that the counsel time was averaged between the two lawyers, Quail and Worth to reflect the contribution that both lawyers made to the proceeding. In this instance, the Commission Panel allows

that the average rate of \$1600 for counsel is acceptable within the PACA Guidelines. In the future, the Commission Panel desires to have the pro-rated percentages for each lawyer stated in the Bill of Costs.

The BCOAPO cost award amount is \$13,881.88.

IPPBC

The IPPBC applied for a cost award for \$19,971 based on 12 maximum funding days instead of nine maximum funding days and total counsel fees of \$12,096.00, consulting fees of \$7,875.00, all inclusive of applicable taxes.

IPPBC applied for participant funding based on 6 maximum funding days for counsel and six days for the consultant. The daily rates used by IPPBC are: \$1,800 for counsel and \$1,250 for the consultant. These rates are consistent with the PACA Guidelines.

However, the Commission Panel considers that the consultant Mr. Weimer's contribution to the proceeding was more consistent with that of a case manager than a consultant and warrants a reduced award of three days at \$500/day.

		Days Requested	Rate Requested	Maximum Funding Days	Rate Awarded	GST 5%	PST 7%	Amount Awarded
IPPBC	Counsel D. Austin	6	\$1,800	6	\$1,800	\$ 540.00	\$ 756.00	\$12,096.00
	Consultant J. Weimer	6	\$1,250	6	\$ 500	\$ 150.00	0	\$ 3,150.00
	Total	12		12				\$15,246.00

The IPPBC adjusted cost award amount is \$15,246.00.

JIESC

The JIESC applied for a cost award for senior counsel of \$1800 per day. The JIESC therefore requests payment of \$12,492 plus 7%PST of \$874.44 for a total of \$13,366.44. The actual cost to the JIESC for these legal services was \$26,356.28 or approximately double the amount claimed.

The Commission Panel considers that JIESC met the "substantial interest in a substantial issue" criterion of the PACA Guidelines.

The JIESC cost award amount is \$13,366.44.

CEC

The CEC applied for a cost award based on five maximum funding days for research and consulting services, preparation and review of responses to information requests, attending SOP Application workshop, preparation for and attendance at the negotiated settlement process. The CEC therefore requests payment of \$15,250 plus GST and PST for a total of \$16,642.50.

The Commission Panel considers that CEC met the “substantial interest in a substantial issue” criterion of the PACA Guidelines.

The CEC adjusted cost award amount is \$16,642.50.