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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-27-08**

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

and

**An Application by FortisBC Inc.
For a Certificate of Public Convenience and Necessity Application
for the Copper Conductor Replacement Project**

BEFORE: A.A. Rhodes, Commissioner
R.J. Milbourne, Commissioner December 19, 2008
P.E. Vivian, Commissioner

O R D E R

WHEREAS:

- A. On November 24, 2008, Sarah Khan of the British Columbia Public Interest Advocacy Centre submitted an Application for a Participant Assistance/Cost Award ("PACA") on behalf of the BC Old Age Pensioners Organization et al. ("BCOAPO") for its participation in the proceeding (the "Proceeding") to review an Application by FortisBC Inc. ("FortisBC") for a Certificate of Public Convenience and Necessity ("CPCN") for the Copper Conductor Replacement Project; and
- B. By Order G-165-08 dated November 7, 2008, the Commission issued its Decision on the Application by FortisBC for a CPCN for the Copper Conductor Replacement Project; and
- C. By letter dated December 11, 2008, FortisBC stated that it had no comments regarding BCOAPO's Application for funding; and
- D. The Commission Panel has reviewed the PACA Application with regard to the criteria and rates set out in the Guidelines in Commission Order G-72-07 and has concluded that, for the Reasons for Decision that are set out in Appendix A to this Order, a PACA award should be approved for BCOAPO with respect to its participation in this Proceeding.

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NOW THEREFORE the Commission orders as follows:

1. Pursuant to section 118(1) of the *Utilities Commission Act*, the Commission awards funds to BCOAPO for its participation in the Proceeding to review the Application by FortisBC for a CPCN for the Copper Conductor Replacement Project.

	<u>Award</u>
BC Old Age Pensioners' Organization <i>et al.</i> ("BCOAPO")	\$2,096.50
TOTAL	<u>\$2,096.50</u>

2. FortisBC is directed to reimburse the above noted participant by way of a cheque to the British Columbia Public Interest Advocacy Centre, for the total amount awarded in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 19th day of December 2008.

BY ORDER

Original signed by:

A.A. Rhodes
Commissioner

Attachment

Application for Participant Assistance/Cost Award Funding

Application by FortisBC Inc.
for a Certificate of Public Convenience and Necessity
for the Copper Conductor Replacement Project

REASONS FOR DECISION

1.0 INTRODUCTION

On November 7, 2008 the British Columbia Utilities Commission (the “Commission”) issued Order G-165-08 wherein it determined to deny a Certificate of Public Convenience and Necessity for the Copper Conductor Replacement Project.

The Commission received an Application from the BC Old Age Pensioners Organization *et al.* (“BCOAPO”) pursuant to section 118 of the *Utilities Commission Act* (“the Act”) for a Participant Assistance/Cost Award (“PACA”) for the Certificate of Public Convenience and Necessity for the Copper Conductor Replacement Project. The PACA cost award requested in the Application totalled \$2,096.50.

Section 118 of the Act 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 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 states that 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. As the review of the Application involved two rounds of information requests, the Commission staff estimate would have been four preparation days for both legal and consultant.

For purposes of determining the cost award, the Commission Panel reviewed the Application and statement of costs. The Commission Panel determines the entitlement to be a full award.

3.0 PACA APPLICATION

The Commission Panel has reviewed the PACA Application, which is for one-half day of legal expenses at \$1,400 per day, one day of consultant fees at \$1,250 per day, and disbursements of NIL for a total of \$2,096.50 including applicable taxes. The maximum daily fees shown are in accordance with those in Order G-72-08.

The Budget Estimate for the review of the original Application submitted by BCOAPO was for 1.5 days of legal expenses, 2.25 days of consultant fees plus disbursements for a total of \$5,350.15.

FortisBC has no comment regarding BCOAPO's funding Application for \$2,096.50.

4.0 COMMISSION DETERMINATION

For these reasons, **the Commission Panel determines that the total award is \$2,096.50.**