

**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER F-29-09**

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

and

British Columbia Transmission Corporation  
Open Access Transmission Tariff Amendment Application

and

A Complaint by TransCanada Energy Ltd  
re BCTC Long-Term Firm Point-to-Point Transmission Service  
Participant Funding/Cost Award Bills of Cost – Order G-72-07

**BEFORE:** A. A. Rhodes, Panel Chair  
L. A. O'Hara, Commissioner  
P. E. Vivian, Commissioner

October 15, 2009

**O R D E R**

**WHEREAS:**

- A. By letter dated October 9, 2008 TransCanada Energy Ltd. ("TCE") filed a Complaint ("the TCE Complaint" or "Complaint") with the British Columbia Utilities Commission ("BCUC" or "Commission") against the British Columbia Transmission Corporation ("BCTC") concerning the latter's administration of service agreements for Long Term Firm Point-to-Point Transmission Service from British Columbia to Alberta; and
- B. On November 21, 2008, BCTC filed its Open Access Transmission Tariff ("OATT") Application for Commission and public review. The OATT Application addressed the issues concerning Firm transmission sales to Alberta, and formed BCTC's response to the TCE Complaint; and
- C. On December 16, 2008, the Commission issued Order G-3-09, directing that the OATT Application would be reviewed via a written hearing process, the TCE Complaint via an oral hearing, and that a common evidentiary record would be created covering both proceedings. Order G-3-09 established the Regulatory Timetable for the proceedings, including January 26, 2009 as the deadline for Participant Assistance/Cost Award ("PACA") budget submissions from Intervenor; and
- D. The Commission received a PACA budget submission from TransAlta Corporation ("TransAlta") dated January 26, 2009. The TransAlta PACA submission described the company's interest in the proceedings and budgeted participation costs at \$6,930.00; and
- E. On February 12, 2009, the Commission sent TransAlta a letter commenting on the PACA submission. Amongst other things, the letter indicated that a PACA award to a for-profit corporation would be unusual for the Commission; and

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- G. By letter dated July 21, 2009, TransAlta submitted a claim for PACA for the OATT and the TCE Complaint proceedings. TransAlta claimed for recovery of \$5,012.02. In keeping with Commission practice, a copy of the PACA claim was sent to BCTC for comment; and
- H. By letter dated September 18, 2009, BCTC commented on the TransAlta PACA claim. BCTC noted that Commission Guidelines contemplate that, in determining eligibility for an award, the Commission Panel may consider the participant's ability to participate in the proceeding without an award. BCTC expressed no view as to how this particular consideration should affect the Commission Panel's review of TransAlta's claim; and
- I. The Commission has reviewed the TransAlta PACA claim, the comments by BCTC, and the criteria and rates set out in Order G-72-07.

**NOW THEREFORE** pursuant to section 118(1) of the Act, and for the Reasons for Decision attached to this Order, the Commission Panel determines that TransAlta's application for a Participant Assistance/Cost Award is denied.

DATED at the City of Vancouver, in the Province of British Columbia, this 15<sup>th</sup> day of October 2009.

BY ORDER

*Original signed by:*

A.A. Rhodes  
Panel Chair/Commissioner

Attachment

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and

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**REASONS FOR DECISION**

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**1.0 INTRODUCTION**

On September 10, 2009, the British Columbia Utilities Commission (the “Commission”) issued its Decision on a complaint by TransCanada Energy Ltd. (“TCE”) regarding the service agreement with British Columbia Transmission Corporation (“BCTC”) for Long Term Firm Point-to-Point Transmission Service and Order G-175-08.

Besides the Applicant, TCE, the other participants in the proceeding included BCTC, British Columbia Hydro and Power Corporation and Powerex Corporation, NorthPoint Energy Solutions Inc., TransAlta Energy Marketing Corporation (“TransAlta”), B.C. Old Age Pensioners’ Organization *et al* and Joint Industry Electricity Steering Committee. TransAlta was the only participant that applied for a Participant Assistance/Cost Award (“PACA”).

Section 118 of the Utilities Commission Act (“UCA”) provides that the Commission Panel may make cost awards for participation in a proceeding. The Commission’s PACA Guidelines are found in Appendix A to Order No. G-72-07 which sets out certain criteria a Commission Panel in a proceeding may use to determine the amount of an award, if any. If a Participant establishes that it has a “substantial interest in a substantial issue” in a proceeding the Commission will consider the following factors:

- 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 purpose 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?
- 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 also 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, and 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:

	Proceeding Days
Procedural Conference – January 8	.5
Oral Hearing – April 29-30	2.0
Total	2.5

### 3.0 PACA APPLICATIONS

The Commission received only one application by the deadline established as shown below:

TransAlta Corporation	\$ 5,012.02
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### 4.0 ADJUSTMENTS TO INDIVIDUAL PACA APPLICATION AMOUNTS

**While the TransAlta application appears relatively reasonable in view of the proceeding days the Commission Panel determines the claim be denied primarily because TransAlta is a public for-profit corporation.** As indicated in the PACA Guidelines the Commission Panel considered TransAlta's ability to participate in the proceeding without an award and concluded that in light of TransAlta's assets, net income and cash flow, TransAlta's participation was not jeopardized by an expenditure of \$ 5,012.02. The Commission Panel also notes that the Commission Staff, in its February 12, 2009 letter to TransAlta, stated that "Most importantly, TransAlta should note that usual Commission practice is not to award funding to participants who are for-profit corporations."

In addition, the Commission Panel notes that even if TransAlta was not a major corporation, its application would have been at risk because TransAlta is only a potential, rather than existing, customer for BC>AB Path service. Accordingly, the outcome of the proceeding would not necessarily lead to reduced revenue or added costs for TransAlta. Finally, the Commission Panel is of the view that it would have reached the same determinations in its Decision without TransAlta participation, due to the other evidence that was available and relied upon in reaching the Decision.