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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER F-12-10**

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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  
In the Application by  
British Columbia Hydro and Power Authority  
for the Mica Gas Insulated Switchgear Project**

**BEFORE:** R.J. Milbourne, Panel Chair/Commissioner April 20, 2010  
P.E. Vivian, Commissioner

**O R D E R**

**WHEREAS:**

- A. On August 5, 2009, British Columbia Hydro and Power Authority (BC Hydro) applied (the Application) for acceptance by the British Columbia Utilities Commission (the Commission) that the expenditures in a capital expenditure schedule filed pursuant to section 44.2(1)(b) of the *Utilities Commission Act* (the Act) in respect of the Mica Gas Insulated Switchgear Project (Mica GIS Project) are in the public interest; and
- B. On December 10, 2009, the British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO) applied for Participant Assistance/Cost Award (PACA) funding for its participation in the proceeding; and
- C. On January 5, 2010, the Independent Power Producers Association of British Columbia (IPPBC) applied for PACA funding for its participation in the proceeding; and
- D. By letter dated January 14, 2010, the Commercial Energy Consumers Association of British Columbia (CEC) applied for PACA funding for its participation in the proceeding; and
- E. By Order G-38-10 and Decision dated March 16, 2010, the Commission declined to accept the capital expenditure schedule for the Mica GIS Project; and
- F. By letter dated April 6, 2010 to the Commission, BC Hydro commented on the cost award applications; and
- G. Commission Order G-72-07 established Guidelines for PACA applications. Section 1 of the PACA Guidelines regarding Participant Eligibility is attached as Appendix B to this Order; and
- H. The Commission has reviewed the PACA applications with regard to the criteria and rates set out in the PACA Guidelines in Commission Order 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.

**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER** F-12-10

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**NOW THEREFORE**, the Commission orders as follows:

1. Pursuant to section 118(1) of the Act, the Commission awards funds to the following for their participation in the proceeding:

<b>Participant</b>	<b>Application</b>	<b>Award</b>
British Columbia Old Age Pensioners' Organization <i>et al.</i>	\$7,360.50	\$7,360.50
Independent Power Producers of British Columbia	\$7,617.75	\$7,617.75
Commercial Energy Consumers Association of British Columbia	\$8,869.70	\$7,557.20

2. BC Hydro is directed to reimburse the above-noted Participants for the Award amounts in a timely manner.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 21<sup>st</sup> day of April 2010.

BY ORDER

*Original signed by:*

R.J. Milbourne  
Panel Chair/Commissioner

Attachments



## **IN THE MATTER OF**

**APPLICATIONS FOR PARTICIPANT ASSISTANCE/COST AWARDS**

**IN THE APPLICATION BY  
BRITISH COLUMBIA HYDRO AND POWER AUTHORITY  
FOR THE MICA GAS INSULATED SWITCHGEAR PROJECT**

## **REASONS FOR DECISION**

**April 20, 2010**

### **BEFORE:**

R.J. Milbourne, Panel Chair/Commissioner  
P.E. Vivian, Commissioner

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## 1.0 INTRODUCTION

On August 5, 2009, British Columbia Hydro and Power Authority (BC Hydro) applied (the Application) for acceptance by the British Columbia Utilities Commission (the Commission) that the expenditures in a capital expenditure schedule filed pursuant to section 44.2(1)(b) of the *Utilities Commission Act* (the Act) in respect of the Mica Gas Insulated Switchgear Project (Mica GIS Project) are in the public interest. By Order G-38-10 and Decision dated March 16, 2010, the Commission declined to accept the capital expenditures schedule for the Mica GIS Project.

As set out in the Order that accompanies these Reasons for Decision, the Commission received three applications pursuant to section 118 of the Act for Participant Assistance/Cost Award (PACA) funding for the Mica GIS Project proceeding. Section 118 provides that the Commission Panel (Panel) may make cost awards for participants in a proceeding. The Commission's PACA Guidelines are set out in Order G-72-07, and Section 1 of the Guidelines dealing with Participant Eligibility is attached as Appendix B of this Order.

The PACA Guidelines expect that, except in limited circumstances, only ratepayer groups will establish a "substantial interest in a substantial issue" in a revenue requirements proceeding, and so be eligible for PACA funding. Participants other than ratepayer groups may be eligible for PACA funding in other proceedings, providing they meet the substantial interest in a substantial issue criterion. Each PACA applicant must demonstrate that it contributed to a better understanding of the issues by the Commission, and that its costs are fair and reasonable.

In some circumstances, an individual Participant that does not qualify for an award pursuant to the Participant eligibility criteria as set forth in Section 1, may be reimbursed for disbursements to travel to a proceeding that is more than 100 km from the Participant's residence.

## 2.0 PROCEEDING AND PREPARATION DAYS ELIGIBLE FOR FUNDING

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. Order G-95-09 established a written public hearing for the review of the Mica GIS Project, and a Regulatory Timetable that included two sets of Information Requests. The only proceeding time was a one-half day Workshop on August 26, 2009.

The Guidelines provide that the Panel may award costs for preparation days on a ratio of up to two days per proceeding days, although after the proceeding the Commission may adjust this ratio with adequate justification from participants. As the Application was reviewed in a written public hearing, the PACA proceeding days guideline is not directly applicable.

In the review letters that responded to filed PACA budgets, Commission staff assessed the amount of legal counsel and consultant effort that appeared likely to be required for full participation in the written hearing, and estimated that four days for each of legal counsel and consultants would be eligible for funding. Staff also cautioned that the absence of an oral process may mean that the amount of eligible legal counsel time could be somewhat less than four days.

### Commission Determination

In the case of the Mica GIS proceeding, the Panel finds that the calculation of preparation days based on proceeding days does not appropriately reflect the fact that the review proceeded through a written process. The Application was relatively modest in scope, and there were two sets of Information Requests, followed by written submissions. **The Panel concludes that the staff estimate of the amount of effort required to fully participate in the proceeding was reasonable, and determines that up to four days of each of legal counsel and consultant time will be eligible for funding.**

### **3.0 INDIVIDUAL PACA APPLICATIONS AND AWARD AMOUNTS**

In this section, the Panel reviews each of the PACA applications and makes determinations on the amounts of cost awards to Participants in the Mica GIS Project proceeding.

#### **BCOAPO**

On December 10, 2009, the British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO) applied for PACA funding for its participation in the proceeding. BCOAPO applied for three days of legal counsel fees at a cost of \$6,048.00 and one day of consultant fees at \$1,312.50, for a total request of \$7,360.50.

In its letter dated April 6, 2010, BC Hydro stated that the BCOAPO contributed to a greater understanding of certain key issues.

#### **Commission Determination**

BCOAPO represents ratepayer groups and participated actively and constructively in the proceeding. The daily rates for legal counsel and consultant comply with the Guidelines, and the times for counsel and consultant are within the number of days that the Commission Panel determined is eligible for funding. **The Panel finds that BCOAPO meets all the criteria for PACA reimbursement and awards the full amount of its claim for \$7,360.50.**

#### **IPPBC**

On January 15, 2010, the Independent Power Producers Association of British Columbia (IPPBC) applied for PACA funding for its participation in the proceeding. IPPBC applied for 1.5 days of legal counsel time at \$3,024.00 and 3.5 days of consultant time at \$4,593.75, for a total request of \$7,617.75.

IPPBC submitted that it has a substantial interest in a number of substantial interests in the proceeding. The water rental fees paid by members of IPPBC are indexed to BC Hydro's rate increases. IPPBC also submitted its members have an interest in the reliability of the BC Hydro system since they must interconnect with that system, that the Province's Energy Plan requires BC Hydro to plan for the integration of future generation resources, and that it needs to ensure that informed choices are made about energy acquisition alternatives.

In its letter dated April 6, 2010, BC Hydro stated that the IPPBC spent some of its effort on the treatment of capital overhead and IPP interconnections, which did not contribute to a greater understanding of key issues with respect to the Mica GIS Project.

#### **Commission Determination**

IPPBC does not represent a ratepayer group as defined in the Guidelines, but it may still be eligible for PACA funding to the extent it demonstrates "a substantial interest in a substantial issue" in the matter under review. The Commission Panel accepts that IPPBC has an interest in several issues in the proceeding, including the reliability of the BC Hydro system, and factors that may affect the comparison of energy acquisition alternatives. While IPPBC has an interest in planning for the integration of future energy resources, this was not a particularly relevant issue in the proceeding. The Panel agrees with BC Hydro that the efforts of IPPBC with respect to IPP interconnections and the treatment of capital overhead did not contribute to a greater understanding of key issues.

Notwithstanding the above, and that the interests of IPPBC were to a degree limited, certain of its information requests and submissions contributed to the Panel's better understanding of the key issues relevant to its determinations. **Accordingly the Panel determines that IPPBC meets the criteria for PACA reimbursement and awards the full amount of its claim for \$7617.75.**

## CEC

On January 14, 2010, the Commercial Energy Consumers Association of British Columbia (CEC) applied for PACA funding. CEC applied for 1.14 days of legal counsel time at \$2,307.20 and 5.00 days of consultant time at \$6,562.50, for a total request of \$8,869.70.

In its letter dated April 6, 2010, BC Hydro stated that the CEC contributed to a greater understanding of certain key issues, and also explored a number of inputs and factors contributing to the project's cost.

## Commission Determination

CEC represents a ratepayer group, and participated extensively in the proceeding. The daily rates for legal counsel and consultant comply with the Guidelines. While the time for legal counsel is within the amount of time that the Commission Panel determined will be eligible for funding, the amount of consultant time somewhat exceeds the four days that are eligible. The Panel concludes that the amount of funding for CEC should be reduced to comply with the determination on consultant time. **As calculated in the following table, the Panel determines that CEC is awarded PACA funding in the amount of \$7,557.20.**

CEC	Application			Award					
	Days	Rate \$/day	Total Including Tax	Days	Rate \$/day	Total	GST@ 5%	PST@ 7%	Total Including Tax
Counsel	1.14	\$1,800	\$2,307.20	1.12	\$1,800	\$2,060.00	\$103.00	\$144.20	\$2,307.20
Consultant	5.00	\$1,800	\$6,562.50	4.00	\$1,250	\$5,000.00	\$250.00	0	\$5,250.00
Total			\$8,869.70						\$7,557.20

## **4.0 SUMMARY OF COMMISSION DETERMINATIONS**

The Panel determines that the following amounts of PACA funding are awarded to Participants.

Participant	Application	Award
British Columbia Old Age Pensioners' Organization <i>et al.</i>	\$7,360.50	\$7,360.50
Independent Power Producers of British Columbia	\$7,617.75	\$7,617.75
Commercial Energy Consumers Association of British Columbia	\$8,869.70	\$7,557.20

## **Section 1 of Participant Assistance/Cost Award Guidelines**

### **Section 1, Participant Eligibility**

The Commission Panel in a proceeding may award costs for participation, pursuant to these Guidelines, under section 118 of the Act. The Commission Panel may establish a maximum aggregate award amount (funding cap) for a proceeding.

A Participant is an individual or an organization, which actively participates in a proceeding of the Commission.

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 requirements 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.