

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, BC V6Z 2N3 CANADA
web site: <http://www.bcuc.com>



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-16-14**

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

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

and

**Applications for Participant Assistance/Cost Awards
in the Application by British Columbia Hydro and Power Authority
for Approval of Charges Related to the Meter Choices Program**

BEFORE: L.F. Kelsey, Commissioner
D.M. Morton, Commissioner June 3, 2014
N.E. MacMurchy, Commissioner

ORDER

WHEREAS:

- A. By Order G-72-07 dated July 5, 2007, the British Columbia Utilities Commission (Commission) approved Participant Assistance/Cost Award (PACA) Guidelines, included as Appendix A to the Order. Pursuant to the PACA Guidelines, an application for a cost award must be made by filing a written application with the Commission within thirty days following the last day of a proceeding;
- B. On October 7, 2013, British Columbia Hydro and Power Authority (BC Hydro) filed, pursuant to sections 58 to 61 of the *Utilities Commission Act* (the Act) and B.C. Regulation 203/2013 (Direction No. 4) to the British Columbia Utilities Commission, an Application for Approval of Charges Related to Meter Choices Program (the Application);
- C. Order G-167-13 dated October 11, 2013, established a written hearing process and a Regulatory Timetable for the review of the Application (the Proceeding). The Regulatory Timetable was subsequently amended by Order G-186-13 dated November 18, 2013;
- D. On April 25, 2014, the Commission issued Order G-59-14 and the accompanying Reasons for Decision regarding the Application;
- E. Between the period April 2, 2014 and April 14, 2014, the Commission received PACA applications from the following Interveners in the proceeding:
 - 1. British Columbia Pensioners' and Seniors' Organization *et al.*,
 - 2. British Columbia Sustainable Energy Association and Sierra Club of BC,
 - 3. Commercial Energy Consumers Association of British Columbia,

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4. Director of Electoral Area “D” of the Regional District of Central Kootenay, and
5. Citizens for Safe Technology Society/Nomi Davis.

F. Pursuant to the PACA Guidelines, BC Hydro was provided an opportunity to comment on the PACA applications. BC Hydro filed a letter of comment on May 20, 2014; and

G. The Panel considered the PACA applications in the context of the PACA Guidelines.

NOW THEREFORE pursuant to section 118(1) of the *Utilities Commission Act* and for the reasons set out in the Reasons for Decision attached as Appendix A to this Order, the British Columbia Utilities Commission orders as follows:

1. Funding is awarded to the following Interveners for their participation in the British Columbia Hydro and Power Authority Application for Approval of Charges Related to Meter Choices Program:

Intervener	Amount in Application	Participant Assistance Cost Award
British Columbia Pensioners’ and Seniors’ Organization <i>et al.</i>	\$11,125.22	\$10,014.85
BC Sustainable Energy Association and Sierra Club of BC	\$16,983.75	\$16,983.75
Commercial Energy Consumers Association of BC	\$17,524.38	\$17,524.38
Electoral Area D Regional District of Central Kootenay	\$1,805.00	\$1,344.00
Citizens for Safe Technology Society/Nomi Davis	\$71,788.00	\$13,437.31

2. BC Hydro is directed to reimburse the above Participant Assistance/Cost Award applicants for the amounts that have been awarded in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 4th day of June 2014.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner

Attachment



IN THE MATTER OF

**APPLICATIONS FOR PARTICIPANT ASSISTANCE/COST AWARDS
IN THE BRITISH COLUMBIA HYDRO AND POWER AUTHORITY APPLICATION
FOR APPROVAL OF CHARGES RELATED TO THE
METER CHOICES PROGRAM**

REASONS FOR DECISION

June 3, 2014

BEFORE:

L.F. Kelsey, Commissioner
D.M. Morton, Commissioner
N.E. MacMurchy, Commissioner

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1.0 INTRODUCTION

On April 25, 2014, the British Columbia Utilities Commission (Commission) issued Order G-59-14 and accompanying Reasons for Decision on British Columbia Hydro and Power Authority's (BC Hydro) Application for the Approval of Charges Related to the Meter Choices Program (Application). The Application was filed pursuant to BC Regulation 203/2013 (Direction No. 4) issued by the Provincial Government and sections 58-61 of the *Utilities Commission Act* (the Act). Direction No. 4 provides directions to the Commission in its setting of rates for BC Hydro's Meter Choices Program (Program). It requires the Commission to ensure that BC Hydro's rates allow it to collect sufficient revenue in each fiscal year to enable it to recover from the customers who participate in the Program, the additional costs attributable to the choice of meter made by those customers.

Due to the prescriptive nature of Direction No. 4, a copy of which was included in the Appendix to the Application, the scope of the proceeding was very narrow. The only issues within scope in this proceeding were whether the proposed charges in the Application enable BC Hydro to recover expenditures that were considered program costs, investigation costs or infrastructure costs to the extent that BC Hydro requested their recovery, and the amount of the proposed failed installation charge.

In addition, the Commission cautioned Registered Interveners and all Interested Parties about the limited scope of the proceeding in:

- a) Directive 4 of Order G-167-13 dated October 11, 2013, which notified all parties of the limits on the Commission's powers to review the Application. (Exhibit A-3)
- b) Its letter dated February 3, 2014, issued in response to a motion from the Citizens for Safe Technology Society/Nomi Davis (CSTS) to compel BC Hydro to respond to certain questions in its Information Requests (IR), which again reminded all participants of the limited scope of the proceeding. In the letter the Commission Panel noted that its determinations on the unanswered Information Requests (IRs) may be useful to Interveners in understanding the scope of the proceeding as they prepare their Final Submissions in the proceeding. (Exhibit A-14)

Section 118(1) of the Act provides that the Commission may order a Participant in a proceeding before the Commission to pay all or part of the costs of another Participant in the proceeding. By Order G-72-07 dated July 5, 2007, the Commission issued its Participant Assistance/Cost Award (PACA) Guidelines. PACA funding is intended to offset costs incurred by eligible Participants in a proceeding who might not otherwise be able to participate without assistance. In determining the amount of funding to be allowed, the Commission also considers the fact that the Participant's cost award will ultimately be borne by the ratepayers of the public utility being ordered to pay them. Therefore, the Commission also seeks to ensure that the ratepayers of the public utility have received value for any participant cost award it makes.

In accordance with the PACA Guidelines (Guidelines), each Intervener who submitted a PACA budget was provided with a review letter from Commission staff. Staff review letters drew to the attention of each individual PACA applicant the limited scope of this proceeding.

The Commission received PACA applications from five Interveners:

- 1. British Columbia Pensioners' and Seniors' Organization *et al.* (BCPSO)
- 2. British Columbia Sustainable Energy Association and Sierra Club of BC (BCSEA)
- 3. Commercial Energy Consumers Association of British Columbia (CEC)

4. Director of Electoral Area “D” of the Regional District of Central Kootenay (RDCK)
5. Citizens for Safe Technology Society/Nomi Davis (CSTS)

2.0 PACA GUIDELINES

The Guidelines discuss the eligibility requirements and criteria used in assessing the amount of an award, the process for applying for a cost award, and eligible costs and rates.

The first issue the Panel will consider is whether the Participant has a substantial interest in a substantial issue in the proceeding. Provided the Participant meets the substantial interest in a substantial issue criterion the Commission Panel determines the entitlement to a full or partial award taking into account the criteria in Section 1 of the PACA Guidelines including:

- 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 proceeding?
- vi. Any other matters appropriate in the circumstances.

If the Panel considers it to be an appropriate consideration in a proceeding, the Panel may consider the Participant’s ability to participate in the proceeding without an award.

A Participant who intends to apply for a cost award must submit a budget estimate as prescribed in the Guidelines. Commission staff will reply with a review letter that includes an estimate of proceeding days and an estimate of preparation days that may be funded and identify any issues with the Participant’s budget estimate. The Commission staff advice is not binding on the Participant or the Commission Panel and is provided only to forewarn Participants of potential issues that may affect funding. At the close of the proceeding, normally the last day of the argument phase of the proceeding, the Participant has 30 days to submit an application for a cost award in writing with supporting information as described in the Guidelines. The time for filing PACA applications in this proceeding began to run on March 18, 2014, coincident with the filing of BC Hydro’s Supplementary Reply Submission. All the PACA applications were received during the period from April 2, 2014 to April 14, 2014.

2.1 PACA Funding Decision-making Process

The Guidelines set out eligible rates and costs. Section 4 of the Guidelines states that “...‘proceeding day’ may include workshop days, negotiation days, pre-hearing conference days, hearing days, and oral argument days, and will not include town hall meeting days.” Specific allowance is made for disbursements such as direct expenses related to the Participant’s participation in the proceeding.

Section 4 further specifies the Maximum Daily Fee for professional services including legal, consultant and case managers. The Guidelines are clear that costs and awards be based on the lesser of the actual billing rates or the Maximum Daily Fees specified based on qualification and be prorated for part days. Section 4 d) describes factors that the Panel will consider in determining the level of an award for consultants. The Panel may award

fees for an Expert Witness/Specialist that exceed the Maximum Daily Fee; however, the Participant must seek approval in advance for fees that exceed the Maximum Daily Fee.

The Panel considers the criteria above, the information provided by the Participant with respect to any variances from the Participant's budget estimate and any variances from the initial staff estimates. The party being asked to pay, in this case BC Hydro, is also given an opportunity to comment on the PACA funding applications.

2.2 Scope as Criterion in PACA Funding Determination

When assessing the PACA applications to determine the entitlement to a full or partial award in the context of the Guidelines, and in particular the criteria set out in Sections 1 (ii) and (iii) of the Guidelines as noted in Section 2.0 of these Reasons, the Panel took into account, first and foremost, whether the participation by the PACA applicant fell within the narrow scope of this proceeding.

References to the scope of the proceeding are provided in Section 1 of these Reasons. In addition, pages 8 to 9 in the Reasons for Decision accompanying Order G-59-14 reiterated that the scope was limited to the following issues:

- Whether BC Hydro's forecasts of incremental costs (i.e., program, infrastructure, investigation costs) are reasonable;
- Whether the costs within the Program are appropriately allocated between customers who choose legacy meters and customers who choose radio-off meters;
- Whether the incremental costs identified as Program costs are appropriately allocated between customers in the Program and the rest of BC Hydro's customers; and
- The reasonableness of the proposed charge per visit due to failed installation of meters as a result of an obstruction at the customer's premises.

3.0 DETERMINATION OF PACA AWARDS

3.1 BC Hydro's Comments on the PACA Applications

By letter dated May 20, 2014, BC Hydro provided its comments on the PACA applications received by the Commission. On page 1 of 2, BC Hydro comments as follows:

"BC Hydro has reviewed the cost claims made by BCPSO, BCSEA, CECBC and RDCK and finds that they are substantially consistent with the Participant Assistance/Cost Award Guidelines (BCUC Order No. G-72-07). The scope of the proceeding was narrow as a result of the Government's Direction No. 4 to the BCUC. However, each of these applicants contributed towards a better understanding of the application and fully participated in the proceeding by submitting questions in both rounds of Information Requests and submitting Final Arguments."

On page 2 of 2, BC Hydro further commented:

“CSTS’s application for a participant award of \$71,788 is significantly higher than the sum of the PACA applications from the other four intervener groups, which totalled to about \$47,000. As compared to the other intervener groups, BC Hydro does not believe that CSTS’s contribution to the proceeding was substantially greater than other Applicants.”

3.2 Eligibility

The Panel recognizes all five PACA applicants as Registered Interveners in the proceeding. Each of these Interveners has satisfied the Panel that they represented the interests of ratepayers in the BC Hydro service area and had a substantial interest in a substantial issue in the proceeding.

The Panel confirms that all the Participants meet this PACA eligibility requirement.

3.3 Total Proceeding Days

In assessing PACA awards for this proceeding, the Panel first determines a reasonable basis for arriving at an award based on contributions from legal counsel, case managers and consultants or any combination thereof (based on an eight hour work day) per Participant.

The Commission Panel is cognizant of both the narrow scope of the Application as well as the high level of public interest in the Application, as indicated by more than 1,000 Letters of Comment, and the registration of 152 Interested Parties and 35 Interveners.

The Commission Panel determines a maximum of 11 proceeding days for PACA funding, subject to actual billing and the level of active participation of each PACA applicant. The total 11 maximum days is itemized as follows:

Item	Time Allowance
Proceeding days based on staff estimate	4 days
Preparation days	4 days
Participation in the Hurd Reconsideration	1 day (0.5 to review and 0.5 for submission)
Participation in Commission Panel’s Information Request	1 day (0.5 to review and 0.5 for submission)
Review of the high volume of exhibits	1 day

The Panel finds Commission staff’s estimate of four proceeding days to be reasonable for participation, by legal counsel, case managers and consultants collectively, because the scope of the proceeding was narrow and limited to the issues discussed in Section 2.2 above. The Panel will also allow an additional four preparation days in addition to the above four proceeding days for an applicant’s contribution on issues that are within scope.

Further, the Panel allows up to three additional proceeding days, one each for: (a) a review and submission on the Hurd Reconsideration application (to be split evenly between review and submission), (b) a review and supplementary submission on the Commission Panel’s IR (to be split evenly between review and submission), and (c) the large volume of exhibits for review. The combination of proceeding days, preparation days, and the additional time allowed for the Hurd Reconsideration, Panel’s IRs and volume of exhibits collectively will be referred to as proceeding days.

3.4 PACA Awards

The following table sets out the amounts claimed for PACA funding by the Interveners in the proceeding.

Applicant	Amount
BCPSO	\$11,125.22
BCSEA	\$16,983.75
CEC	\$17,524.38
RDCK	\$1,805.00
CSTS	\$71,788.00

The Panel has considered the PACA applications received in the context of the criteria outlined in Section 1 of the Guidelines as follows.

i. Will the Participant be affected by the outcome?

The Panel is persuaded that all five Participants that applied for a cost award meet the PACA requirements concerning the effect of the outcome on them.

ii. Has the Participant contributed to a better understanding of the issues by the Commission?

Where Participants' submissions in the proceeding are in scope, the Panel is satisfied that the majority of the Participants have contributed in some way to a better understanding of the issues by the Commission. In instances where this is not the case, the Panel discusses this criterion with respect to the individual applicant in the relevant sections below.

iii. Are the costs incurred by the Participant for the purposes of participating in the proceeding fair and reasonable?

The Panel is satisfied that the costs incurred for the purposes of participating in the proceeding are fair and reasonable for the majority of the Participants. The Panel has considered specific issues relating to this criterion with respect to one Participant as noted in the relevant sections below.

iv. Has the Participant joined with other groups with similar interests to reduce costs?

The Panel is satisfied that, when applicable, all Participants have done so.

v. Has the Participant engaged in conduct that tended to unnecessarily lengthen the proceeding?

Generally, the Panel is satisfied that the PACA applicants did not unnecessarily lengthen the proceeding. However, the Panel notes that there were instances where a number of the Interveners did pursue issues that were out-of-scope, which required extra effort and expense by other Participants in the proceeding.

vi. Any other matters appropriate in the circumstances.

Any other matters appropriate in the circumstances are discussed further with respect to the individual applicant in the relevant sections below.

3.5 BCPSO

BCPSO filed its PACA application on April 11, 2014 for a total of \$11,125.22 based on 4 days of counsel services, 3.34 days of consultant services and \$21.47 in expenses. The funding applied for is substantially similar to the estimates in BCPSO's budget. The daily rates for counsel and consultant respectively are within the Guidelines.

The Panel considers that BCPSO contributed to better understanding of many issues in this proceeding. Fees claimed for legal and consultant services are in accordance with the Guidelines and the Panel considers them appropriate given the qualifications of the resources employed. The number of days is within the maximum number of proceeding days set by the Panel. However, the Panel also notes that resources were employed to pursue out-of-scope issues such as a subsidy for low-income Meter Choices Program customers and BC Hydro's reconnection charges.

BCPSO did devote some of its participation to out-of-scope issues. In BCPSO's case, however, the Panel considers that the amount claimed should be reduced by a modest amount since the number of days claimed by BCPSO is within the maximum proceeding days set by the Commission Panel. The Panel considers a 10 percent reduction to be appropriate in the circumstances. The reduction results in an award of \$10,014.85 comprising \$5,400 for legal services, \$3,757.50 for consulting services, \$21.47 in disbursements, and applicable taxes.

BCPSO Application	Approved
Legal Counsel	Legal Counsel
a) 2 days at \$1,800 = \$3,600.00	Total = \$5,400.00
b) 2 days at \$1,200 = \$2,400.00	GST = \$270.00
Total = \$6,000.00	PST = \$378.00
c) GST (5%) = \$300.00	TOTAL = \$6,048.00
d) PST (7%) = \$420.00	
TOTAL = \$6,720.00	
Consultant	Consultant
a) 3.34 days at \$1,250 = \$4,175	Total = \$3,757.50
b) GST (5%) = \$208.75	GST = \$187.88
Disbursement = \$21.47	Disbursement = \$21.47
Grand Total = \$11,125.22	Grand Total = \$10,014.85

The Panel directs BC Hydro to reimburse BCPSO for a PACA amount of \$10,014.85.

3.6 BCSEA

BCSEA filed its PACA application on April 2, 2014 for a total of \$16,983.75 based on 7.5 days of counsel services and 3.6 days of case manager services. The funding applied for the case manager is similar to the budget estimate whereas the number of counsel days in the application exceeds the budgeted time by 4.5 days.

The Panel considers that BCSEA contributed to a better understanding of most of the issues in the proceeding and actively participated in the discovery phase and argument phase of the written hearing. BCSEA made submissions in the Hurd Reconsideration application and the Commission Panel IRs processes, and demonstrated an appreciation of the issues in BC Hydro's application through clear and generally in-scope submissions. The Final Submission from BCSEA was quoted extensively in the Decision.

The daily rates claimed by BCSEA are in line with the Guidelines although the total number of days for funding applied for, at 11.1 days, is over by 0.1 day. In the circumstances of BCSEA's contribution, the Panel approves the amount applied for.

BCSEA Application	Approved
Legal Counsel	Legal Counsel
a) 7.5 days at \$1,800 = \$13,500.00	Total = \$13,500.00
b) GST (5%) = \$675.00	GST = \$675.00
c) PST (7%) = \$945.00	PST = \$945.00
TOTAL = \$15,120.00	TOTAL = \$15,120.00
Case Manager	Case Manager
a) 3.55 days at \$500 = \$1,775	Total = \$1,775
b) GST (5%) = \$88.75	GST = \$88.75
c)	
TOTAL = \$1,863.75	TOTAL = \$1,863.75
Grand Total = \$16,983.75	Grand Total = \$16,983.75

BC Hydro is directed to reimburse BCSEA for the fully applied for PACA amount of \$16,983.75

3.7 CEC

CEC filed its PACA Application on May 14, 2014 for a total of \$17,524.38 based on 5.31 days of legal services and 5.19 days of consultant services. The total number of days in its application exceeds the CEC budget estimates by one day for counsel and one day for the consultant. The daily rates for counsel and consultant respectively are within the Guidelines.

The Panel considers that CEC contributed to better understanding of most of the issues in this proceeding.

CEC's participation was generally within scope. It raised a number of issues regarding BC Hydro's assumptions in the Application and provided challenges to those assumptions and pursued other alternatives. The Panel notes that the total number of days CEC applied for PACA funding is 10.5 days (5.31 + 5.19) and that the number of days is within the maximum allowed for this proceeding which is 10.5 days (i.e., maximum allowed 11 days minus 0.5 day because CEC did not file a submission in the Hurd Reconsideration).

The Commission approves an award to CEC in the full amount applied for.

CEC Application	Approved
Legal Counsel	Legal Counsel
a) 5.31 days at \$1,800 = \$9,562.50	Total = \$9,562.50
b) GST (5%) = \$478.13	GST = \$478.13
c) PST (7%) = \$669.38	PST = \$669.38
TOTAL = \$10,710.01	TOTAL = \$10,710.01

Consultant	Consultant
a) 5.19 days at \$1,250 = \$6,489.88	Total = \$6,489.88
b) GST (5%) = \$324.49	GST = \$324.49
TOTAL = \$6,814.37	TOTAL = \$6,814.37
Grand Total = \$17,524.38	Grand Total = \$17,524.38

BC Hydro is directed to reimburse CEC for the fully applied for PACA amount of \$17,524.38.

3.8 RDCK

RDCK filed its application for reimbursement for certain costs to the Commission on April 11, 2014 for a total of \$1,805.00. In its letter, RDCK did not describe this as a PACA award application but as an invoice to the Commission for research and support, editorial, secretarial, and other services in connection to BC Hydro's Application. RDCK did not submit a PACA budget.

The Panel notes that RDCK participated in the two rounds of IRs as well as in the Hurd Reconsideration application process, but did not file a submission in the Commission Panel IR process. The Panel further notes that the applied for number of days at 11.29 (90.25 hours divided by 8) exceeds the maximum number of days set by the Panel at 10.5 days (i.e., maximum of 11 days – 0.5 days). Therefore, the Panel modifies the applied for days to 10.5 days (or 84 hours) instead of 11.29 days.

The Panel finds RDCK's participation in the discovery phase and the argument phase of the proceeding included a considerable amount of time on out-of-scope issues. Examples of out-of-scope issues pursued by RDCK include: the constitutionality of provincial government direction to the Commission (i.e., Direction No. 4); electromagnetic fields tolerance, health of customers, and involuntary acceptance of smart meters by customers. The Panel believes that resources would have been better spent on in-scope issues to contribute to a better understanding by the Commission. As a result of the considerable time spent on out-of-scope issues, the Panel reduces the applied for number of days as adjusted above by another 20 percent to 8.4 days or 67.2 hours. The total award for RDCK is approved at \$1,344.00

RDCK Area 'D' Application	Approved
Legal research and support services	Legal research and support services
a) 90.25 hours at \$20.00 per hour	67.2 hours at \$20.00
Total = \$1,805.00	Total = \$1,344.00
Grand Total = \$1,805.00	Grand Total = \$1,344.00

BC Hydro is directed to reimburse RDCK for a PACA amount of \$1,344.00.

3.9 CSTS

As indicated in the table summarizing PACA applications in Section 3.4 above, CSTS' application for PACA funding greatly exceeds the other PACA applications in this proceeding. The amount in its PACA application also greatly exceeds its own budget estimates, notwithstanding the caution contained in Commission staff's review letter responding to the CSTS budget. In this Section, the Panel will provide detailed discussion on each item of CSTS' application, including the Panel's observations on the IRs and submissions from CSTS that were out-of-scope.

3.9.1 CSTS's Budget versus Application

CSTS filed its PACA budget estimates on October 23, 2013 and its PACA application on April 14, 2014. The budget estimates and the applied for amount are summarized below:

		BUDGET	APPLICATION
A.	Counsel Fees: <ul style="list-style-type: none"> • Number of days • Daily Rate • Total • GST • PST • Total plus applicable taxes 	<ul style="list-style-type: none"> • 18 days • \$1,800 • Not provided • Not provided • Not provided • Not provided 	<ul style="list-style-type: none"> • 26 days • \$1,800.00 • \$46,800.00 • \$2,340.00 • \$3,276.00 • \$52,416.00
B.	Consultant/Expert Witness <ul style="list-style-type: none"> • Number of days • Daily Rate • GST • PST • Total plus applicable taxes 	<ul style="list-style-type: none"> • 8 days • \$1,450.00 • Not provided • Not provided • Not provided 	<ul style="list-style-type: none"> • 10 days • \$1,450.00 • \$0.00 • \$0.00 • \$14,500.00
C.	Case Manager <ul style="list-style-type: none"> • Number of days • Daily Rate • Total • GST • PST • Total plus applicable taxes 	<ul style="list-style-type: none"> • 14 days (combined with consultant) • \$500.00 • Not provided • Not provided • Not provided • Not provided 	<ul style="list-style-type: none"> • 8.7 days • \$500 • \$4,350 • \$217.50 • \$304.50 • \$4,872.00
D.	Grand Total	Not provided	\$71,788.00

The Commission staff review letter to CSTS dated November 4, 2013 notified CSTS that its estimates greatly exceeded staff's estimates and that the estimated expert witness's time for eight days exceeded the total days estimated by staff.

In its PACA application on page 2 under section B, CSTS refers to its budget estimate as well as the Commission staff review letter. The CSTS budget estimate is as follows:

- 18 days of legal counsel time
- 8 days of expert witness time at \$1,450 per day
- 14 days of combination consultant's and case manager's services

3.9.2 Eligibility

According to CSTS, it has a membership of several thousand individuals; in addition, CSTS claims that a plaintiff in the B.C. Supreme Court was represented by CSTS so as to "address potential issues arising out of the effect that the two proceedings may have on each other."

In the Panel's view, whether an Applicant for a PACA award or any member of an Applicant for a PACA award is involved in judicial proceedings or proceedings before another tribunal, which may involve issues similar to those being decided by the Commission in a proceeding, is not a relevant criterion for the purposes of PACA funding. Presumably, such proceedings will have their own rules or guidelines relating to the recovery of costs for participation. In this proceeding, the Panel's determination on the amount of costs to be awarded CSTS is made according to the Guidelines that the Commission has approved.

The Panel already accepts that CSTS has a substantial interest in substantial issues in the proceeding and that it will be affected by the outcome of the proceeding. It will next consider the remaining criteria set out in Section 1 of the Guidelines.

3.9.3 Has the CSTS Contributed to a Better Understanding of the Issues by the Commission?

CSTS participated in both rounds of IRs, asking close to 90 questions in the first round and over 22 questions in the second round. It did not make a submission in the Hurd Reconsideration application, but did participate in the review of Commission Panel IRs and filed a Supplementary Final Submission.

In considering CSTS' PACA application, the Panel has reviewed the IRs and submissions of CSTS in detail. The Panel observes that out of the total number of IR questions, a substantial number of questions (close to 40 out of 89 questions) in the first round of IRs were out-of-scope; in the second round, another significant number (around 16 out of 22 questions) were out-of-scope. Some examples of the out-of-scope questions included in IR No. 1 were questions #1, 2, 3, 4 and 47 on non-residential customers' installation of smart meters; questions # 8, 9, 11-20 on pre-Meter Choices Program installation of smart meters; and questions #26-29 on hypothetical zero costs of opt-out fees. Examples of out-of-scope questions in IR No. 2 include: questions #2.1 on involuntary participation; #2.4, 2.5 on smart meter installation contractual terms.

The Panel further observes that where the issues pursued by CSTS fell within scope, some of them contributed to the proceeding to some degree but a number of them displayed a lack of understanding of the information contained in the Application. Some examples are questions #36-37 in IR No. 1 relating to the monthly charge being interpreted as monthly meter reading charges, and questions #50-51 related to electric cars. Accordingly, the Panel finds that CSTS contributed limited value to a better understanding of the issues by the Commission notwithstanding the fact the CSTS claimed to have retained an expert witness for 10 days.

The Final Submission of CSTS contained little cost analysis of BC Hydro's proposed incremental charges but a lengthy discussion of the basic assumption used in the cost estimate under the hypothetical scenario of 'what if' the program participation pool of customers had not been limited by government policy. The Panel does not view the Final Submission as contributing to a better understanding of the in-scope issues in this proceeding.

In its Supplementary Final Submission (Exhibit C4-8), CSTS argued the issue of installation of smart meters over customers' objections that were already determined to be out-of-scope in the Commission's February 3, 2014 letter (Exhibit A-14) referred to in Section 1.0.

3.9.4 Are the costs incurred by CSTS for the purposes of participating in the proceeding fair and reasonable?

In its May 20, 2014 letter to the Commission, BC Hydro made the following comments on the cost claims made by CSTS:

"CSTS submitted a budget request of \$44,000, more than three times the amount of the next highest request. In response BCUC staff sent CSTS a letter dated November 4, 2013 cautioning CSTS on the budget amount and highlighted a number of areas of concern including the number of estimated proceeding days and legal counsel days and days for the use of a consultant and case manager.

CSTS has submitted that 26 days were needed for legal counsel, more than three times the next highest amount claimed. Case management hours claimed were 8.7 days, more than double the next highest claim. Consultant fees claimed for 10 days were roughly double the next highest claim. BC Hydro also notes that no other applicant made claims for both case management and consultant expenses."

The Panel does not consider the costs incurred by CSTS for the purposes of participating in the proceeding to be fair and reasonable. The Panel arrives at this conclusion by considering the scope and nature of the proceeding, the caution contained in the Commission staff review letter, and a comparison with the PACA application amounts for other Interveners in this proceeding. CSTS' PACA application for funding far exceeds the maximum set for funding as noted in the Section 3.3 of these Reasons.

CSTS provided the following reasons to explain the variances of its actual proceeding days with estimates from Commission staff:

- 1) The voluminous record of evidence;
- 2) BC Hydro's failure to provide meter choices enrollment data in the first round of information requests;
- 3) The Commission Panel's IR and the supplementary round of Submissions; and
- 4) The Hurd Reconsideration application on an interim order in this proceeding.

BC Hydro notes in its letter of comment on PACA applications that:

"CSTS indicated in its application that the number of days required may have exceeded staff expectations due to the "voluminous record of evidence", BC Hydro's delay in providing meter choices enrolment data, Commission Panel information requests and Mr. Hurd's application for reconsideration. BC Hydro maintains that all Applicants had substantial interest in this proceeding and as such would be subject to the same level of required diligence and effort in their review of all aspects of the proceeding and, therefore, believes CSTS's submission to be excessive comparatively speaking."

The Commission Panel notes that the PACA applications from other Interveners generally fall within or approximate the proceeding days allowed for PACA funding. A comparison of CSTS' and other PACA applications actual days is presented below:

	Legal Counsel Days	Consultant	Case Manager	TOTAL
CSTS	26.0	10.0	8.7	44.7
BCPSO	4.0	3.34	0.0	7.34
BCSEA	7.5	0.00	3.6	11.1
CEC	5.3	5.13	0.0	10.43

The Commission Panel acknowledges that the record of evidence is voluminous in terms of the number of exhibits and the additional rounds of submissions required as a result of the Hurd Reconsideration application and the Commission Panel IRs. The 11 proceeding days allowed for PACA funding take these items into account as explained in Section 3.3 of these Reasons. The Commission Panel notes that CSTS did not file a submission on the Hurd Reconsideration application and for this reason the Panel reduces the maximum PACA proceeding days allowed to CSTS to 10.5 days.

For all the above reasons, the Panel considers that CSTS' claim for the number of days in the PACA application is far in excess of the number of days that is fair and reasonable for participating in this proceeding.

In contrast to the CSTS application for a participant cost award of \$71,788, the PACA applications from other Interveners, which are addressed earlier in these Reasons, range from approximately \$11,100 to \$17,500 (excluding RDCK). All other Interveners were considered by the Panel to have made some contribution to a better understanding of the issues by the Commission.

3.9.5 Has CSTS engaged in any conduct that tended to unnecessarily lengthen the duration of the proceeding?

CSTS did not engage in conduct that tended to lengthen the duration of the proceeding. However, it did pursue issues that were out-of-scope which required extra effort and expense by participants.

3.9.6 Any other matters appropriate in the circumstances.

The Panel addresses the following matters.

- A) CSTS claims in its PACA application that but for CSTS, the Commission stands to "face a barrage of lay litigants bringing forth their positions without the assistance of counsel; advancing submissions in a haphazard way and draining the efficiencies and resources of the hearing Panel and all concerned."

The Panel accepts CSTS submission in this regard but considers this argument applies generally to other Interveners as well.

- B) CSTS claims 26 days for counsel services and its counsel was assisted by both a case manager and a consultant. Other Interveners such as BCSEA and CEC also participated actively in the proceeding and were assisted by either a case manager or a consultant. BCSEA and CEC claimed 5.3 days and 7.5 days respectively for the services of their counsel.

The Panel believes the appropriate number of days allowed for funding the legal services of CSTS should approximate an average of the days claimed by the counsel for BCSEA and CEC at respectively 5.3 days and 7.5 days, which is 6.5 days.

- C) In its application, CSTS states that the daily rate of \$1,450 for its consultant, Mr. Anderson, is appropriate given his expertise and experience. CSTS further states that the cost for Mr. Anderson pertains to “review of proceeding materials, preparation of reports, opinion statements, information requests and, in some instances, assistance in preparation of written submissions amounting to 10 days of service.”

The Panel notes that \$1,450 per day is the PACA Guidelines Maximum Daily Fee for an Expert Witness/Specialist. With respect to the contribution of the consultant, while CSTS may have found his assistance to be of some value, the Panel notes there were essentially no economic or financial analysis of each Program activity and related proposed fees in the Application, nor were there any proposals or challenges put forward by CSTS in its IRs and submissions. Further, the Panel does not consider the matters under consideration to have been complex beyond the requirements of a competent finance or economics professional with 10-plus years of experience.

The Panel considers retaining an Expert Witness/Specialist and subsequently requesting reimbursement at an Expert Witness/Specialist rate of \$1,450 to have been excessive. The Panel considers that Mr. Anderson’s daily rate is more appropriate at the maximum daily rate for a consultant at \$1,250.

- D) In its PACA application, CSTS sought case management funding at a per diem rate of \$500 for 8.7 days. However, the application did not provide the case manager’s identity or his invoice for the work done in this proceeding.

The Panel is of the view that a case manager can provide cost-effective assistance to counsel. However, the Panel finds, given the narrow scope of the proceeding as discussed earlier, it is both unfair and unreasonable to grant a PACA award for the participation of both an expert/consultant and a case manager in this proceeding in the total amounts claimed for their services.

CSTS applies for 8.7 days of case manager time and 10 days for consultant time (Appendix B to the CSTS PACA application). The total number of days is approximately 19 days (8.7 days + 10 days). **The Panel finds that a pro-rated number of days between the consultant and case manager is warranted; this would result in 9/19 days for case manager and 10/19 days for the consultant.**

3.9.7 Commission Panel Decision

As noted in Section 3.9.3 of these Reasons, the Panel finds that the contribution of CSTS to a better understanding by the Commission of the issues in the proceeding to be of limited value because of the significant focus on out-of-scope issues and some lack of understanding of the Application.

The Panel also determines that the overall quantum of the application to be unfair and unreasonable since in its view the time claimed for legal counsel, Expert Witness/Specialist and case manager is not warranted by the narrow scope of the Application. CSTS was, or ought to have been, aware of the scope and the nature of the proceeding before it organized its resources and proceeded to apply those resources. The prescriptive wording of Direction No. 4, together with directive 4 of Order G-167-13, provided early notification to participants of the

limited scope of the proceeding. The Commission staff review letter, although not binding on CSTS or the Commission Panel, provided a further reason for CSTS to exercise caution in the costs it incurred in this proceeding.

The Panel is of the view that how CSTS managed its legal, consultant and case manager resources is a matter for CSTS' discretion; however, BC Hydro's ratepayers should only pay for what is fair and reasonable.

As with BCPSO and RDCK, the Panel concludes that a reduction is warranted to reflect the resources spent on out-of-scope issues. Given the significant number of out-of-scope issues CSTS engaged in, the Panel considers that a reduction of 20 percent of the allowed number of days is appropriate. A breakdown of the final award of CSTS is provided as follows:

CSTS PACA Application	Approved	Comments
Legal Counsel 26 days at daily rate of \$1,800 = \$46,800.00 a) GST (5%) = \$2,340.00 b) PST (7%) = \$3,276.00 TOTAL = \$52,416.00	Legal Counsel = \$9,360.00 GST (5%) = \$468.00 PST (6%) = \$655.20 TOTAL = \$10,483.20	80% of 6.5 days (5.2 days) at a rate of \$1,800
a) Consultant/Expert Witness 10 days at daily rate of \$1,450 TOTAL = \$14,500	Consultant Fees TOTAL = \$2,105.26	The maximum allowed number of days remaining after allocated to legal counsel is 4.0 days (10.5-6.5) 4.0 days pro-rated with consultant at 10/19 is 2.105 days. 80% of 2.105 days is 1.684 days, at a daily rate of \$1,250.
a) Case Management 8.7 days at daily rate of \$500 Total = \$4,350 b) GST (5%) = \$217.50 c) PST (7%) = \$304.50 TOTAL = \$4,872.00	Case Manager Total = \$757.89 GST (5%) = \$37.89 PST (7%) = \$53.05 TOTAL = \$848.84	The maximum allowed number of days remained after allocated to legal counsel is 4.0 days (10.5-6.5) 4.0 days pro-rated with consultant at 9/19 is 1.895 days. 80% of 1.895 days is 1.516 days, at a daily rate of \$500.
Grand Total = \$71,788.00	Grand Total = \$13,437.31	

BC Hydro is directed to reimburse CSTS for a PACA amount of \$13,437.31.