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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-26-13**

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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 Awards
in the Application by FortisBC Inc.
for a Certificate of Public Convenience and Necessity
for the Advanced Metering Infrastructure Project

BEFORE: L.F. Kelsey, Commissioner
D.M. Morton, Commissioner September 27, 2013
N.E. MacMurphy, 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 July 26, 2012, FortisBC Inc. (FortisBC) applied to the Commission pursuant to sections 45, 46 and 56 of the *Utilities Commission Act*, for the approval of the Advanced Metering Infrastructure (AMI) Project (Project);
- C. By Order G-105-12, dated August 2, 2012, the Commission established a Preliminary Regulatory Timetable, subsequently amended by Orders G-177-12, G-17-13 and G-51-13 to review the AMI Project (Proceeding);
- D. The Proceeding concluded on May 30, 2013, coincident with FortisBC's Reply Argument;
- E. On July 29, 2013, Citizens for Safe Technology Society (CSTS), an Intervener in the Proceeding, filed a letter seeking leave to file its PACA application beyond the 30 day period. By Order G-112-13, dated July 30, 2013, the Commission Panel extended the filing deadline for PACA applications to August 1, 2013;
- F. By Order F-8-13, dated April, 3, 2013, CSTS was awarded interim funding of \$25,000 for its participation in the Proceeding;
- G. By Order F-14-13, dated May 27, 2013, Mr. Keith Miles and Mr. Andy Shadrack representing Electoral Area D Regional District of Central Kootenay (RDCK), were awarded PACA funds for their participation in the Proceeding;
- H. By August 1, 2013, the Commission also received PACA Applications from:

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- British Columbia Pensioners' and Seniors' Organization *et al.* (BCPSO),
- BC Sustainable Energy Association *et al.* (BCSEA),
- Commercial Class Energy Consumers Association of BC (CEC),
- Citizens for Safe Technology Society (CSTS), and
- Joe Tatangelo

- I. Pursuant to the PACA Guidelines, FortisBC was provided an opportunity to comment on the PACA Applications and submitted letters of comment dated August 14, 2013 and August 29, 2013; and
- J. The Panel has considered the PACA Applications in the context of the PACA Guidelines.

NOW THEREFORE the Commission orders as follows:

1. Pursuant to section 118 (1) of the *Utilities Commission Act*, the Commission awards funds in the following amounts to the Interveners for their participation in the Proceeding. Reasons for partial awards are provided in Appendix A to this Order.

| Intervener | Final Application | Participant Assistance Cost Award |
|-------------------|--------------------------|--|
| BCPSO | \$72,096.74 | \$72,096.74 |
| BCSEA | \$148,554.85 | \$139,730.61 |
| CEC | \$151,244.28 | \$138,368.50 |
| CSTS | \$266,285.00 | \$137,666.00* <small>*net of the \$25,000 interim funding</small> |
| Joe Tatangelo | \$490.00 | \$400.00 |

2. FortisBC is directed to reimburse the Participants for the amounts that have been awarded in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 27th day of September 2013.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner

Attachment



IN THE MATTER OF

**APPLICATIONS FOR PARTICIPANT ASSISTANCE/COST AWARDS
IN THE APPLICATION BY FORTISBC INC.
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
FOR THE ADVANCED METERING INFRASTRUCTURE PROJECT**

REASONS FOR DECISION

September 27, 2013

BEFORE:

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

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1.0 INTRODUCTION

The Commission received over \$660,000 in Participant Assistance/Cost Award applications from five Interveners in the FortisBC Inc. Advanced Metering Initiative Certificate of Public Convenience and Necessity (CPCN) Proceeding. Section 118(1) of the *Utilities Commission 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.

Applications for PACA funding received from the following five Participants are assessed in these Reasons for Decision.

1. British Columbia Pensioners' and Seniors' Organization *et al.* (BCPSO)
2. British Columbia Sustainable Energy Association and Sierra Club of BC (BCSEA)
3. Commercial Class Energy Consumers Association of British Columbia (CEC)
4. Citizens for Safe Technology Society (CSTS)
5. Mr. Joe Tatangelo

2.0 PACA GUIDELINES

The PACA 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 criteria 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 that intends to apply for a cost award must submit a budget estimate as prescribed in the PACA 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 some 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 PACA Guidelines.

The PACA Guidelines set out eligible rates and costs and defines “proceeding day” as “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 travel expenses for out of town Participants and direct expenses related to the Participant’s participation in the proceeding but does not include travel time.

The Panel will consider 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 of proceeding and preparation days. The party being asked to pay, in this case FortisBC, is also given an opportunity to comment on the PACA funding applications.

2.1 Maximum Total Participant Days

In assessing PACA awards for the FortisBC Advanced Metering Infrastructure (AMI) Proceeding the Panel will first determine a reasonable basis for arriving at an award based on contributions from legal counsel, case managers and consultants or any combination of consultant and case management (based on an 8 hour work day) per Participant. Participation days for experts and/or expert witnesses will be evaluated separately for each Participant based on the expert’s contribution in the Proceeding.

In determining these maximum award levels the Panel considered Commission staff’s original estimate as the starting point which is broken down as follows:

Figure 1
Commission Staff Estimate for Combined Written / Oral Hearing Process

| Phase | Task | Days (max) | |
|-------------------------------|-------------------------------------|------------|----|
| Preliminary Written Timetable | Review Application | | 12 |
| | Prepare Information Request (IR) | | |
| | Review FortisBC Response to IR1 | | |
| | Prepare IR2 | | |
| | Review FortisBC Response to IR2 | | |
| | Procedural Conference | 1 | 13 |
| Oral Hearing | Preparation Days | 8 | |
| | Oral Hearing Days | 4 | |
| Written Phase II | Filing of Intervener Evidence | | 19 |
| | IR's on Intervener Evidence | | |
| | Review Intervener Responses to IR's | | |
| | Final Submission | | |
| | Maximum Number of Days | | 44 |

Commission staff provided its estimate of 44 days maximum in response letters to Interveners' budget estimates on or about November 1, 2012. The 44 days maximum is broken down as up to 12 days for the written review, an additional 13 days for the proposed oral hearing (assuming four oral hearing days, one Procedural Conference day and eight preparation days) and 19 days for the proposed written process. Staff informed Interveners where their PACA funding may be at risk based on each budget estimate provided.

The Panel updated the staff estimate to include for the actual number of oral hearing days (increased from four to ten), one procedural conference day, and allowance for hearing preparation days using a maximum ratio of two days per proceeding day as stated in the PACA Guidelines. The Panel further allowed up to an additional five days for unanticipated submissions from motions raised during the Proceeding. Subsequent amendments to the written process included a third round of Intervener IRs, a limited confidential round of Intervener IRs, a limited IR by Commission staff and BCPSO related to the Kelowna municipal utility acquisition and supplemental written submissions on the IARC Report. (Exhibit A-32, Order G-17-13; Exhibit A-36, Order G-24-13; Exhibit A-43, Order G-80-13)

The following figure shows the resulting Panel calculation for the Maximum Participant Award Days based on these actual, updated figures separated into Legal and Case Manager + Consultant.

Figure 2
Maximum Participant Award Days

| Phase | Task | Days (max) | |
|-------------------------------|---|------------|---------------------------|
| | | Legal | Case Manager + Consultant |
| Preliminary Written Timetable | Review Application | 6 | 6 |
| | Prepare IR1 | | |
| | Review FortisBC Response to IR1 | | |
| | Prepare IR2 | | |
| | Review FortisBC Response to IR2 | | |
| | Procedural Conference | 1 | - |
| Oral Hearing | Preparation Days | 22 | 5 |
| | Oral Hearing Days | 10 | 10 |
| Written Phase II | Filing of Intervener Evidence | 4 | 8 |
| | IR's on Intervener Evidence | | |
| | Review Intervener Responses to IR's | | |
| | Final Submission | | |
| Additional Written | IR3, Confidential IR1, Supplemental Submission in IARC Report | 3 | 2 |
| | Maximum Number of Days | 46 | 31 |

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

The Panel therefore does not allow time spent by Interveners for travel or at the community input sessions which the Panel considers to be “town hall” meetings for the purposes of the application of the Guidelines. The total number of proceeding days in this Proceeding was 11 (one procedural conference day and ten oral hearing days). In assessing PACA awards for the FortisBC AMI Proceeding the Panel determines that a Participant’s maximum award will be based on up to 46 days for legal and up to 31 days for any combination of consultant and case management (based on an 8 hour work day) total per Participant. Experts / Expert witnesses will be evaluated separately based on their individual contributions in the Proceeding.

The Panel further determines that the total maximum number of days eligible for PACA funding for any Participant to be 77 days as derived above (based on an 8 hour day) for the total of legal, consultant and case management resources. Expert and Expert Witnesses will be considered separately.

2.2 Maximum Daily Fee

Section 4 of the PACA Guidelines 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 award for consultants and 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. None of the Participants applied for Expert fees greater than the Maximum Daily Fees.

3.0 DETERMINATION OF FINAL AWARDS

3.1 Eligibility

The Panel recognizes all five PACA applicants as registered Interveners in the Proceeding. Each of these Interveners has satisfied the Panel that they represent the interests of ratepayers in the FortisBC service area and have a substantial interest in a substantial issue in the Proceeding. The Panel therefore confirms that the Participants meet this PACA eligibility requirement.

3.2 PACA Awards

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. This Proceeding concluded on May 30, 2013, coincident with FortisBC’s Reply Argument. On July 29, 2013, CSTS filed a letter seeking leave to file its application beyond the 30 days. By Order G-112-13, the Panel extended the filing deadline for PACA applications to August 1, 2013. By Order F-8-13, dated April 3, 2013, CSTS was awarded \$25,000 as an interim PACA Award. By Order F-14-13, dated May 27, 2013, Mr. Keith Miles was awarded \$604.08 and Mr. Andy Shadrack representing Electoral Area D Regional District of Central Kootenay (RDCK) was awarded \$4,740.92 for their participation in the AMI Proceeding.

FortisBC commented in its letter of August 29, 2013 that it “is generally concerned by the overall size of the PACA claims in the AMI proceeding.”

The following sections deal with the five Intervener PACA applications received by the filing deadline not previously awarded.

3.3 BCPSO

3.3.1 PACA Application

BCPSO submitted its PACA application on July 18, 2013 for a total of \$72,096.74 based on 33 days of legal, 7.66 days of consultant services and \$2,906.99 in expenses.

3.3.2 PACA Budget

BCPSO's PACA Budget was submitted on September 11, 2012 and included 7 days for legal and 5.5 days for consultant.

3.3.3 BCPSO PACA Eligibility

The Panel has reviewed BCPSO's participation in the hearing against the PACA Guidelines and summarizes its findings below:

1. Will the Participant be affected by the outcome?

BCPSO submits that it is a group of community-based organizations who collectively represent the interests of low and fixed income residential ratepayers of electricity and natural gas in BC and who are directly affected by this Proceeding. The Panel is persuaded that BCPSO meets the PACA requirements concerning the effect of the outcome on them.

2. Has the Participant contributed to a better understanding of the issue(s) by the Commission?

After reviewing BCPSO's IRs and submissions, the Panel is satisfied that BCPSO did contribute to a better understanding of the issues; in particular of the financial impacts of the AMI and potential implications of an AMI opt-out program.

3. Has the Participant participated in all or limited aspects of the Proceeding?

BCPSO participated fully in the hearing, including IRs, submissions, the Oral phase and final arguments. The Panel is satisfied that BCPSO participated and contributed in all aspects of the Proceeding although notes that BCPSO spent less time cross-examining witnesses at the oral hearing than other Interveners based on a review of the transcripts.

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

In its Intervener registration letter BCPSO submits that it represents the BC Pensioners' and Seniors' Organization, the BC Coalition of People with Disabilities, Counsel of Senior Citizens' Organizations of BC and the Tenant Resource and Advisory Centre. The Panel finds that by participating as a single intervening party, BCPSO made more efficient use of legal services than if these organizations had participated separately.

5. Has the Participant engaged in conduct that tended to unnecessarily lengthen the Proceeding?

The Panel finds BCPSO did not engage in conduct that tended to unnecessarily lengthen the Proceeding.

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

BCPSO's participation utilized three roles, at the following applied-for rates:

| Role | Experience | Rate (excluding GST/PST) | PACA Guideline Maximum Daily Fee |
|---------------|--------------|--------------------------|----------------------------------|
| Legal Counsel | 10+ years | \$1,800 | \$1,800 |
| Legal Counsel | 5 – 10 years | \$1,400 | \$1,400 |
| Consultant | 10+ years | \$1,250 | \$1,250 |

The Panel notes that all rates are within the PACA Guidelines Maximum Daily Fee.

The Panel reviewed the participation of BCPSO in the Proceeding. Given the scope and amount of time spent by BCPSO cross-examining witnesses the number of preparation days for each oral hearing day allowed to BCPSO is reduced from two days to one day. Since BCPSO's consultant did not participate in the oral hearing the Panel further reduces the Maximum Participant Award Days by 15 days. The table below compares BCPSO's actual claim with the Maximum Participant Award calculated using the Maximum Participant Award Days and Maximum Daily Fee. All amounts include applicable taxes.

| Role | Maximum Participant Award | BCPSO PACA Request |
|---------------|-------------------------------------|--------------------|
| Legal Counsel | \$72,576 (36 days @ \$1,800/day) | \$59,136.00 |
| Case Manager | | |
| Consultant | \$21,000 (16 days @ \$1,250/day) | \$10,053.75 |
| Total | \$93,576 | \$69,189.75 |

The Panel finds that BCPSO attended the oral hearing in a cost effective way with a single representative split one week each between the two legal representatives as opposed to duplication of resources during the oral hearing. Given the above assessment and considering BCPSO's PACA request is less than the Panel calculated Maximum Participation Award, the Panel finds the applied-for costs to be reasonable. BCPSO also applies for travel and other expenses of \$2,906.99, inclusive of applicable taxes. The Panel finds these to be reasonable. **Accordingly, the Panel directs FortisBC to reimburse BCPSO for the full applied-for PACA amount of \$72,096.74 inclusive of expenses and applicable taxes.**

3.4 BCSEA

3.4.1 PACA Application

BCSEA submitted its PACA application on June 10, 2013, for a total of \$148,554.85 based on 109.12 days total broken down roughly as 48.6 days legal, 44.6 days case manager and 16 days for an expert consultant plus approximately \$6,300 for travel, meals and other expenses. In its budget estimate and PACA application BCSEA state its principal interests in the Advanced Metering Infrastructure Application are the cost effectiveness of the advanced meters and the extent to which they would contribute to increased energy efficiency and conservation, and public awareness of these issues. BCSEA also stated it is interested in the transparency and thoroughness of the Proceeding with regard to addressing public concerns about possible negative health effects of the meters through radiation.

3.4.2 PACA Budget

BCSEA provided its budget estimate on September 11, 2012 for nine days legal and six days case manager. On October 2, 2012, BCSEA provided a revised budget estimate for 27 days total based on nine days each for legal, case manager and a consultant. The Commission staff letter issued on November 1, 2012, provided the revised estimate of a total maximum of 44 days which contemplated a written hearing followed by oral hearing and written submissions. On December 7, 2012, BCSEA further revised its budget estimate to 44 days each for legal, case manager and consultant in light of the Amended

Regulatory Timetable in Order G-177-12. In justifying the increase from nine days each of those roles to 44 days each of those roles (total 132 days) BCSEA states that its October 2, 2012 estimate “is now clearly insufficient” “in light of the 23 November 2012 Order G-177-12 issuing an Amended Regulatory Timetable.”

3.4.3 BCSEA PACA Eligibility

The Panel has reviewed BCSEA’s participation in the hearing against the PACA Guidelines and summarizes its findings below:

1. Will the Participant be affected by the outcome?

BCSEA submits that it is a non-profit association of citizens, professionals and practitioners committed to promoting the understanding, development and adoption of sustainable energy, energy efficiency and energy conservation in British Columbia. Sierra Club of BC is a non-profit organization of British Columbians from all walks of life who care about a broad range of environmental issues including climate change and clean energy. The Panel is persuaded that BCSEA meets the PACA requirements concerning the effect of the outcome on them.

2. Has the Participant contributed to a better understanding of the issue(s) by the Commission?

After reviewing BCSEA’s IRs and submissions, the Panel is satisfied that BCSEA did contribute to a better understanding of the issues. In particular, BCSEA’s contribution assisted the Commission in its evaluation of:

- Financial and non-financial benefits and costs and how to assess the uncertainties in the benefits of theft reduction,
- Health effects issues, including the relevance and credibility of the evidence on health matters, whether the AMI project would cause adverse health effects; whether the meters would comply with the applicable codes and standards; whether the standard of Safety Code 6 affords appropriate protection against potential health hazards; and whether there would be any health benefits from denying the application,
- Project alternatives and security issues.

3. Has the Participant participated in all or limited aspects of the Proceeding?

BCSEA participated fully in the hearing, including IRs, submissions, the Oral phase and final arguments. The Panel is satisfied that BCSEA participated and contributed in all aspects of the Proceeding.

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

BCSEA submits that it represents the BC Sustainable Energy Association and the Sierra Club of BC which are different organizations with different focuses and backgrounds. The Panel finds that by participating as single intervening party, BCSEA made more efficient use of legal services than if these groups had participated separately.

5. Has the Participant engaged in conduct that tended to unnecessarily lengthen the Proceeding?

The Panel finds BCSEA did not engage in conduct that tended to unnecessarily lengthen the Proceeding.

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

BCSEA participation utilized three roles, at the following applied-for rates:

| Role | Experience | Rate (excluding GST/PST) | PACA Guideline Maximum Daily Fee |
|---------------|------------|--------------------------|----------------------------------|
| Legal Counsel | 10+ years | \$1,800 | \$1,800 |
| Case Manager | | \$500 | \$500 |
| Consultant | 10+ years | \$1,250 | \$1,250 |

The table below compares BCSEA’s actual claim with the amount of the claim that would be awarded if the Panel applied the Maximum Participant Award Days guideline from Figure 2 and the PACA Guideline Maximum Daily Fee to determine the Maximum Participant Award. All amounts include applicable taxes.

| Role | Maximum Participant Award | BCSEA PACA Request |
|---------------|-------------------------------------|--------------------|
| Legal Counsel | \$92,736 (46 days @ \$1,800/day) | \$97,977 |
| Case Manager | | \$23,435 |
| Consultant | \$40,688 (31 days @ \$1,250/day) | \$20,836 |
| Total | \$133,424 | \$142,248 |

The Panel has reviewed the participation of BCSEA in the Proceeding and in particular the oral hearing. The Panel is satisfied that, given the scope and amount of time spent by BCSEA cross-examining witnesses, it is reasonable to consider BCSEA’s application in the context of the Maximum Participant Award including two preparation days for each proceeding day.

The Panel is satisfied that by engaging a case manager, BCSEA has reduced the cost that would otherwise be payable to the consultant. However, BCSEA is applying for a total that is in excess of the Maximum Participant Award amount. While the Commission recognizes the contribution by BCSEA to the Proceeding, fairness to FortisBC ratepayers makes it important to ensure that the costs borne by ratepayers are reasonable from the perspective that Interveners being reimbursed should engage resources and use them in the most cost effective manner possible. Accordingly, the Panel award is limited to the Maximum Participant Award amount of \$133,424 inclusive of applicable taxes. BCSEA also applies for travel and other expenses of \$6,306.61, inclusive of applicable taxes. The Panel finds these to be reasonable. **Accordingly, the Panel directs FortisBC to reimburse BCSEA in the amount of \$139,730.61 inclusive of expenses and applicable taxes.**

3.5 CEC

3.5.1 PACA Application

CEC submitted its PACA application on June 25, 2013, for a total of \$151,244.28 based on 90.55 days total broken down as 39 days legal, 51.55 days consultant plus \$4,847.23 for travel, meals and other expenses.

In its budget estimate the CEC state their principal interests in the Advanced Metering Infrastructure Application are the material impacts to FortisBC’s commercial class customers.

CEC submits in its PACA application that it exceeded its budget estimate because it found this project to be more onerous than a traditional CPCN project. CEC cited the significant preparation time required to prepare for the cross-examination of health related witnesses, the challenge of dealing with FortisBC’s understatement of benefits, and CEC’s concerns with FortisBC’s understatement of exposure risks. These challenges were found by CEC to require a greater use of time and resources than the Commission’s traditional formula would allow.

While the Panel recognizes the complexities of the issues in this Proceeding it is not convinced by CEC that all of the consultant costs contained in the claim should be borne by FortisBC ratepayers.

3.5.2 PACA Budget

CEC provided a budget estimate on September 6, 2012 for 36 days total (18 days each for legal and consultant).

3.5.3 CEC PACA Eligibility

The Panel has reviewed CEC’s participation in the hearing against the PACA Guidelines and summarizes its findings below:

1. Will the Participant be affected by the outcome?

CEC submits that it represents commercial class customers of FortisBC who will be materially impacted by this decision. The Panel is persuaded that CEC meets the PACA requirements concerning the effect of the outcome on it.

2. Has the Participant contributed to a better understanding of the issue(s) by the Commission?

After reviewing CEC’s IRs and submissions, the Panel is satisfied that CEC did contribute to a better understanding of the issues in particular for the potential for additional benefits from and exposure risks of the AMI Project.

3. Has the Participant participated in all or limited aspects of the Proceeding?

The Panel is satisfied that CEC participated and contributed in all aspects of the Proceeding.

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

CEC stated that it consults with and takes direction from the Union of British Columbia Utilities, the BC Greenhouse Growers Association, the Building Owners and Managers Association, the BC Apartment Owners and Managers Association, the British Columbia Chamber of Commerce and the Coastal Forest Products Association. The Panel finds that by participating as single intervening party, CEC made more efficient use of legal services than if these groups had participated separately.

5. Has the Participant engaged in conduct that tended to unnecessarily lengthen the Proceeding?

The Panel finds CEC did not engage in conduct that tended to unnecessarily lengthen the Proceeding.

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

CEC engaged participants in two roles, at the following applied-for rates:

| Role | Experience | Rate (excluding GST/PST) | PACA Guideline Maximum Daily Fee |
|---------------|------------|--------------------------|----------------------------------|
| Legal Counsel | 10+ years | \$1,800 | \$1,800 |
| Consultant | 10+ years | \$1,250 | \$1,250 |

The Panel notes that all rates are within the PACA Guidelines.

The table below compares CEC’s actual claim with the amount of the claim that would be awarded if the Panel applied the Maximum Participant Award Days guideline from Figure 2 and the PACA Guideline Maximum Daily Fee to determine the Maximum Participant Award. All amounts include applicable taxes.

| Role | Maximum Participant Award | CEC PACA Request |
|---------------|-------------------------------------|-------------------------|
| Legal Counsel | \$92,736 (46 days @ \$1,800/day) | \$78,624.00 |
| Expenses | Reasonable Expenses | \$2,728.67 |
| Consultant | \$40,688 (31 days @ \$1,250/day) | \$67,675.78 |
| Expenses | Reasonable Expenses | \$2,215.83 |
| Total | \$133,424 + Expenses | \$151,244.28 |

The Panel is satisfied that by its use of its consultant CEC enabled the legal costs to be kept below the maximum that could have been claimed. However, CEC is applying for a total that is in excess of the Maximum Participant Award amount. While the Commission recognizes the contribution by CEC to the Proceeding, fairness to FortisBC ratepayers makes it important to ensure that the costs borne by ratepayers are reasonable from the perspective that Interveners being reimbursed should engage resources and use them in the most cost effective manner possible. **Accordingly, CEC is awarded the maximum framework amount of \$133,424 plus expenses of \$4,944.50 for a total of \$138,368.50 inclusive of applicable taxes.**

3.6 CSTS

3.6.1 PACA Application

CSTS submitted its PACA application on July 30, 2013 for a total of \$291,285 based on 94 days for legal counsel and related disbursements and \$96,450 for experts. In its budget estimate and PACA application CSTS state its principal interests in the Advanced Metering Infrastructure Application are in health and environmental considerations including concerns over security and safety risks associated with the installation of the proposed smart meters.

Between January 30, 2013 and March 27, 2013, CSTS submitted requests for interim funding along with invoices totaling \$84,850 from six separate consultants/experts for review of Proceeding materials, preparation of reports, opinion statements, information requests and in some instances, oral hearing testimony and undertakings. In keeping with the PACA Guidelines, before considering an award FortisBC received a copy of the application and was afforded an opportunity to comment. In reply, by letter dated March 26, 2013, FortisBC raised specific concerns with the amounts invoiced by Dr. Jamieson claiming they were neither fair nor reasonable based on the number of days for preparation of a report compared to the average claimed by four of the other experts.

By Order F-8-13 the Commission awarded interim PACA funds of \$25,000 to the CSTS for its participation in the Proceeding. Order F-8-13 stated at recital J “The Commission Panel has considered the submissions and determines that an interim PACA award is justified on the basis of the invoices provided for completed work for consultants and experts. The Panel makes no finding at this time on whether the consultants/experts enabled CSTS to contribute to a better understanding of the issues by the Commission, or whether the costs incurred by CSTS in retaining the consultants/experts were fair and reasonable.” In the same order in directive 2 the Commission required CSTS, in support of its claim for a final PACA award, to “address the criteria listed in section 1 of the Guidelines and specifically address FortisBC Inc. comments regarding Dr. Jamieson’s invoiced amount.”

3.6.2 PACA Budget

CSTS submitted its budget estimate on October 10, 2012, followed by a redacted copy on October 16, 2012 (still dated October 10, 2012). The budget estimate submitted by CSTS was for 225 days of legal and case management plus an additional 60 days of expert consultants. On October 16, 2012, Commission staff issued its non-binding review of CSTS's PACA estimate which stated:

"Staff estimate the hybrid review process (oral and written) currently being proposed may require an additional 13 days for the proposed Oral Hearing and an additional 19 days for the proposed further written process. Therefore, staff expect the estimate for the complete review may require a maximum total of 44 days for parties participating in the entirety of the Application's review. Staff advise this total includes the filing of Intervener evidence, information requests on Intervener evidence and responding to information requests on Intervener evidence. The budget of the Society includes legal counsel funding for 150 days, a case manager for 75 days, and 12 of 17 expert witnesses for 5 days each for an expert funding of 60 days. Staff observe that the number of days requested exceed the current staff estimate by a significant number of days. Staff reviewed the stated interests of the Society in the proceeding and the issues it intends to pursue, and believe that the Society's interest and issues should be further consolidated. If the Society spends more than the staff's estimate of proceeding and preparation days, it could be at risk for non-recovery of a portion of its expenditures; also, the fees applied for must fall within the fees set out in the PACA Guidelines." (Commission staff letter, dated October 16, 2012, p. 2)

3.6.3 CSTS PACA Eligibility

The Panel has reviewed CSTS's participation in the hearing against the PACA Guidelines and summarizes its findings below:

1. Will the Participant be affected by the outcome?

In its application for intervener status CSTS submits that it is an incorporated society with 25,000 members throughout British Columbia, all of whom oppose the installation of microwave radio frequency emitting smart meters by BC Hydro, Fortis and all other electrical utilities in the province. In the application for a PACA award CSTS states that CSTS has a membership of several thousand individuals who are ratepayers of FortisBC Inc. and the five municipal utilities affected by the FortisBC Application. The FortisBC Application stands to affect:

1. civil liberties of CSTS members
2. health of CSTS Members
3. rates payable by CSTS members
4. the integrity of the utility systems

The Panel is persuaded that CSTS meets the PACA requirements concerning the effect of the outcome on them.

2. Has the Participant contributed to a better understanding of the issue(s) by the Commission?

After reviewing CSTS's IRs, submissions and the testimony of its expert witnesses the Panel is satisfied that CSTS did contribute to a better understanding of the issues in which it actively participated.

3. Has the Participant participated in all or limited aspects of the Proceeding?

The Panel is satisfied that CSTS participated and contributed to the aspects of the hearing limited to health and environmental considerations including concerns over security and safety. In addition CSTS made submissions on civil liberties issues. CSTS did not participate in a meaningful way to the topics included in the written hearing. As an example, in

its Final Submission, the CSTS reference to the economics of AMI is limited to one half page of a seventy three page document. (CSTS Final Submission, p. 72)

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

CSTS joined with a coalition of interested groups including CSTS, Coalition to Stop Smart Meters per Sharon Noble, Trail Group, Coalition to Reduce Electropollution and Shonna Hayes, collectively referred to as “the CSTS Coalition”. The Panel finds that by participating as a single intervening party, CSTS made more efficient use of legal services than if these groups had participated separately.

5. *Has the Participant engaged in conduct that tended to unnecessarily lengthen the Proceeding?*

CSTS concedes that the extensive cross-examination by CSTS and [its] presentation of multiple experts did contribute significantly to the lengthening of these Proceedings. CSTS submits that the efforts made in that regard were all made in pursuit of a relevant position, in good faith and with reasonable diligence. (CSTS letter July 30 2013, p. 4) CSTS also submits that “[t]he conduct of CSTS during the hearing was not without its flaws and was at times unduly reflective of the highly contentious nature of the issues as well as the deep division over health issues within the scientific community.” (CSTS letter July 30, 2013, p. 8) The Panel agrees with CSTS and is of the view that CSTS did at times engage in conduct that tended to unnecessarily lengthen the Proceeding.

6. *Any other matters appropriate in the circumstances.*

A) *The Participants ability to participate in the Proceeding without an award*

CSTS submits that such a consideration would be appropriate in the circumstances. CSTS submits that the ability of CSTS to hire the services of experts and counsel (and effectively articulate its position) has been contingent on funding principles set out in the PACA Guidelines.

The Commission has no evidence on the financial capacity of CSTS and will not consider this issue further.

7. *Are the costs incurred by the Participant for the purposes of participating in the Proceeding fair and reasonable?*

Legal

The Panel concluded, in arriving at the Maximum Participant Award Days (Figure 2), that a reasonable award for legal counsel for participation in the full scope of the proceeding is 46 days. CSTS did not participate actively in the full scope of the Proceeding as noted above. The allowance for preliminary work and participation in the written portion of the Proceeding is six days. During this time CSTS was engaged in retaining experts who, later in the oral hearing contributed in varying degrees to a better understanding of the matters before the Commission. This activity was unique to CSTS and for this reason the Panel allows CSTS the six days it would have been entitled to had CSTS participated in the matters that were the subject of the written hearing process only.

The rate for Counsel

Counsel for CSTS was called to the bar in Ontario in 2002 and in British Columbia in 2003 and as a result just qualifies for the 10 plus “years since call” category which provides for a Maximum Daily Fee of \$1,800.

As noted in section 3.4.3 #5 above the view of the Panel is that counsel did engage in conduct that tended to unnecessarily lengthen the Proceeding. The PACA Guidelines provide at section 4(b) that the Commission Panel will consider factors such as experience before regulatory tribunals and overall conduct of the counsel in determining an appropriate contribution or partial award towards legal costs. While the Panel appreciates the vigor with which counsel for CSTS pursued CSTS interests it agrees with FortisBC’s submission that “Mr. Aaron’s experience specifically before the Commission is limited, and this

may have contributed to certain of the issues that arose during the hearing.” (FortisBC letter August 14, 2013, p. 7) For this reason an award of less than the 10 plus “years of call” category maximum daily fee as set out in the PACA Guidelines seems appropriate. The Maximum Daily Fee for 5-10 years since call is \$1,400 per day which seems to the Panel to be unreasonable in these circumstances. The Panel determines that an award of \$1,600 per day which is midway between the 5 to 10 year Maximum of \$1,400 and the \$1,800 maximum noted above is reasonable.

The days provided for in Figure 2 describe Maximum Participant Award Days of 31 days for Consultant time. Based on its application for PACA funding, CSTS did not engage a junior lawyer to assist its counsel. Nor did it use a case manager for other than three days to provide assistance. CSTS did hire expert witnesses but they will be dealt with separately. CSTS submits that “While CSTS could have benefited from the services of a junior lawyer, it was unable to finance the necessary disbursements in the absence of an *interim* funding award. As a result, we were required to utilize the services of a single senior lawyer who was willing to hold his account in abeyance pending final approval of a PACA award.” (CSTS letter July 30, 2013, p. 7) The Panel notes the advice letter from Commission staff to CSTS expressing the view that one senior counsel and a more junior counsel could be used (CSTS letter July 30, 2013, p. 7) How CSTS managed its legal, consultant and case manager resources is a matter for CSTS’s discretion; however, FortisBC ratepayers should only pay for what is reasonable. The Panel determines that an award for consultant/case manager time should be made but not at the rate for a senior lawyer. The Maximum Participant Award Days allows for up to a total of 31 days for consultant time. CSTS participated in the written phase in a very limited way, with its main areas of interest being “health, environment, security, civil liberties, all of which were substantial issues in this proceeding.” (CSTS letter July 30, 2013, p. 2) As noted above CSTS is allowed the legal time of six days for the written portion of the hearing but because of its limited participation in written proceeding matters the Panel determines that it is not reasonable to allow consultant time for this category. On the other hand, CSTS participated actively in the oral hearing and made final submissions and supplemental submissions. For this activity the Maximum Participant Award Days allows 25 days (31 days less 6 days disallowed for the written phase). CSTS claims three days for a case manager at \$500 per day, a rate consistent with PACA Guidelines. This reduces the 25 days noted above to 22 days. CSTS claims all time at a senior counsel rate for the reasons described above; however, in the view of the Panel this is unreasonable when the work could have been accomplished by a consultant or junior counsel. The Panel notes the PACA Guidelines allows awards to be made for a junior lawyer of up to \$1,200 per day and a consultant with 10 plus years of experience up to \$1,250 per day. With these guidelines in mind the Panel considers an award of \$1,250 per day for 22 days to be reasonable.

The Panel notes in CSTS’s July 30, 2013 PACA application Appendix C “Rough Allocation of Counsel Time”, travel time of two days. The PACA Guidelines provide for certain travel expenses but do not provide for travel time.

The table below shows the Panel’s Maximum Participant Award calculation for legal counsel, case manager and consultant inclusive of applicable taxes.

| Role | Maximum Participant Award |
|----------------------------------|----------------------------------|
| Legal Counsel (46 days @ \$1600) | \$82,432 |
| Case Manager (3 days @ \$500) | \$1,575 |
| Consultant (22 days @ \$1250) | \$28,875 |
| Total | \$112,882 |

Expert Witnesses

Background

CSTS retained eight expert witnesses. Five of the experts, Drs Blank, Carpenter, Jamieson, Maisch and Sears, were cross-examined by video conference during the oral hearing. Apart from the Applicant, CSTS was the only party to present expert witnesses for cross-examination.

In reviewing an appropriate award for the expert witnesses retained by CSTS, the Panel has considered its findings in section 4 of the Decision.

The PACA Guidelines provide for a Maximum Daily Fee of \$1,450 for expert witness/specialist. Upon reviewing the qualifications of the expert witnesses this amount seems to the Panel to be generally reasonable.

The Panel reviewed the December 2012 correspondence initiated by counsel for CSTS to the various experts when the expert was being retained by CSTS. That correspondence requests that the expert commence a review of the facts and documents referenced and that the experts provide their opinion with background reasons for their opinion to questions that will be put to them in a subsequent letter. In subsequent correspondence counsel for CSTS provided specific direction to each expert and was very specific as to the duty of the expert to the tribunal to avoid an advocacy role.

The PACA Funding Request

CSTS requests the following funding for its expert witnesses

| Expert | Days | Rate | Total |
|---------------|-------------|-------------|--------------|
| Blank | 5 | \$1,450 | \$7,250 |
| Carpenter | 7 | \$1,450 | \$10,150 |
| Maisch | 5 | \$1,450 | \$7,250 |
| Maret | 8 | \$1,450 | \$11,600 |
| Sears | 15 | \$1,450 | \$21,700 |
| Jamieson | 25 | \$1,450 | \$36,250 |
| Schoechle | 1.52 | \$1,400 | \$2,200 |

Criteria for Consideration of PACA Funding Requests for expert witnesses

The PACA Guidelines identify a number of issues cited above that the Commission considers in awarding PACA requests. Two of these issues seem to the Panel to be reasonable in considering the funding requests for Experts. They are:

- 1) Has the Participant contributed to a better understanding of the issues by the Commission?
- 2) Are the costs incurred by the Participant for the purposes of participating in the Proceeding fair and reasonable?

Irrespective of the contribution made by each expert, all were required to read material as directed by CSTS to understand the matters before the Commission and for five experts to appear for cross-examination.

Because the experts were retained by CSTS for their expertise in the subject matter it is a reasonable expectation that they would have at hand reference material and opinion with which to respond to the specific questions of CSTS. As Professionals it is also reasonable that they would be economical in their allocation of time.

The July 30, 2013 CSTS request for a PACA award for experts does not include a detailed breakdown of time spent by each expert, only a total time. As result the Panel makes reasonable estimates and allowances for certain activities. In arriving at these estimates and allowances the Panel has also given consideration to the concerns expressed by FortisBC in their response to the CSTS PACA request.

As a guideline the Panel considers the following allocations of time to be reasonable. In some cases other factors have been considered and are explained on an individual basis as appropriate. The Panel notes that two experts are claiming time totaling less than the Panel guideline detailed below and two claim time within a reasonable range of the Panel guideline. The Panel also notes that the CSTS PACA budget estimate provided for 5 days each for expert consultants.

Figure 3
Panel Guideline

| | |
|---|--|
| Time to read and understand the Application material | 1.5 days |
| Time to respond to specific questions of CSTS | 2 days |
| Time to respond to respond to Information Requests | 1 day |
| Time for cross-examination by the Applicant and Interveners | 1 day (one half each for preparation and cross) |
| Total | 5.5 days |

Decisions on each Expert

In considering whether each expert contributed to a better understanding of the issues by the Commission, the Panel concludes that with one exception noted below, each expert contributed in some respects to a better understanding of the issues in the areas for which they were qualified.

Dr. Blank

In the Decision the Panel reached the following conclusion on the expert evidence of Dr. Blank:

“The Panel considers Dr. Blank’s evidence to have been more in the nature of advocacy of his position and as such fails to meet the criteria of objectivity. Further, a portion of the evidence he advanced was outside his acknowledged area of expertise as discussed under epidemiology above. Within his area of expertise, when confronted with conflicting opinions by other qualified persons and organizations, Dr. Blank was quick to discredit the source rather than assist the Panel to understand the differences.

For these reasons, the Panel places little weight on the written evidence and oral testimony of Dr. Blank.” (FortisBC AMI Decision, pp. 19-20)

Having reached this conclusion in the Decision, the Panel determines that CSTS should be awarded 5 days for the evidence of Dr. Blank as applied for.

Dr. Carpenter

In the Decision the Panel reached the following conclusion on the expert evidence of Dr. Carpenter:

“The Panel has significant concerns about Dr. Carpenter’s testimony. Of particular concern is that Dr. Carpenter, in the words of FortisBC, “summarizes the references he cites in a manner consistent with his own beliefs, rather than accurately reporting their findings.” (FortisBC Final Submission, p. 177; T11:2091-2099) The Panel is also concerned with Dr. Carpenter’s reference to studies that suit his views and his inability to properly defend them as exhibited by the Belo Horizonte municipality study example.

In his attempt to summarize the references, Dr. Carpenter adopted a less than objective and fully informed approach. For this reason, the Panel gives little weight to his evidence.”
(FortisBC AMI Decision, p. 22)

Having reached this conclusion in the Decision, the Panel determines that CSTS should be awarded 5.5 days for the evidence of Dr. Carpenter following the guideline in Figure 3.

Dr. Maisch

In the Decision, the Panel reached the following conclusion on the expert evidence of Dr. Maisch:

“The Commission Panel agrees with the CEC that the Commission accept Dr. Maisch’s evidence with respect to the jurisdiction and credentials of Health Canada and that other evidence presented by Dr. Maisch should be “limited to identifying the jurisdiction of health organizations setting standards electromagnetic radiation and their role in public policy.” (CEC Final Submission, p. 99)

The Panel finds merit to FortisBC’s argument that “Dr. Maisch’s consulting livelihood depends upon public fears or concerns about RF exposure” (T8:1562-1564). In the Panel’s view this was reflected in Dr. Maisch’s testimony. The Panel notes that while Dr. Maisch was critical of both Health Canada’s Safety Code 6 and FortisBC’s proposed AMI meters, his Report was based on the 1999 version of Safety Code 6 (T8:1535) and he was not familiar with the proposed meters (T8:1573).

For these reasons, the Panel assigns only limited weight to the testimony of Dr. Maisch. The Panel is not able to assign any weight to the thesis advanced by Dr. Maisch concerning extremely brief transient emissions because the evidence presented in support of the theory is anecdotal.”
(FortisBC AMI Decision, p. 25)

Having reached this conclusion in the Decision, the Panel determines that CSTS should be awarded 5 days for the evidence of Dr. Maisch as applied for.

Dr. Maret

Dr. Maret was unable to participate fully in the Proceeding and did not give evidence at the oral hearing. In the Decision, the Panel reached the following conclusion on the expert evidence of Dr. Maret:

“Dr. Maret’s education and experience suggests that he has the background to have provided meaningful input to the Proceeding. His written evidence contains detailed information some of which, such as his comparison of emission standards in a variety of countries, was recognized as useful by other parties to the Proceeding. However, given Dr. Maret’s inability to respond to information requests or to be available for cross-examination, the Panel accordingly gives little weight to Dr. Maret’s evidence.” (FortisBC AMI Decision, p. 36)

Having reached this conclusion in the Decision, the Panel determines that CSTS should be awarded 1.5 days for Dr. Maret to read and understand the Application material and 2 days to respond to specific questions of CSTS for a total of 3.5 days following the guideline in Figure 3.

Dr. Sears

The Panel notes that the CSTS PACA application requests an award with respect to Dr. Sears' work of 15 days. This request is troubling considering the weight the Panel places on the evidence of Dr. Sears and the application far exceeds the requests for all but one of the other experts.

In the Decision, the Panel reached the following conclusion on the expert evidence of Dr. Sears:

"While it does not consider Dr. Sears to have adopted the role of an advocate in her evidence to the extent of Dr. Jamieson, the Panel does consider Dr. Sears to have a bias towards the justification of "curtailing and modifying our increasing reliance upon wireless communication" (Exhibit C9-8, Tab 7B, p. 21). Overall, Dr. Sears contributed very little to the Panel's understanding of the matter before it. Considering her narrow field of expertise related to this matter and the concerns cited above with respect to her expert evidence, the Panel attributes little weight to Dr. Sears' evidence." (FortisBC AMI Decision, pp. 27-28)

Having reached this conclusion in the Decision, the Panel determines that CSTS should be awarded 5.5 days for the evidence of Dr. Sears following the guideline in Figure 3.

Dr. Jamieson

The Panel notes that the CSTS PACA application requests an award with respect to Dr. Jamieson's work of 25 days. This request is troubling considering the weight the Panel places on the evidence of Dr. Jamieson and the application far exceeds the requests for all other CSTS experts.

On March 26, 2013, FortisBC submitted comments on the invoices received by the Commission from CSTS prior to March 21, 2013, stating it had no comment on the services rendered by Dr. Maisch, Dr. Blank, Dr. Schoechle, and Dr. Carpenter. FortisBC raised specific concerns with the amounts invoiced by Dr. Jamieson claiming they were neither fair nor reasonable based on the number of days for preparation of a report compared to the average claimed by the other four experts. Order F-8-13, which made an interim PACA award to CSTS, directed CSTS to specifically address FortisBC's comments regarding Dr. Jamieson's invoiced amount filed with the interim funding request.

In its PACA application CSTS stated "In addressing the comments made by FortisBC regarding Dr. Jamieson's invoiced amount, we submit that Dr. Jamieson's work addressed multiple facets of the potential environmental impact of the AMI meters, each of which had to be dealt with separately and each of which entailed a different set of facts and analysis." (CSTS letter July 30, 2013, p. 10) The Panel does not consider this brief response from CSTS to be helpful in considering the PACA request with respect to the work of Dr. Jamieson. The response lacked any detail, analysis or comparison with the submissions and PACA requests relating to the work of other CSTS experts.

The Panel reviewed the nature of opinion requested by CSTS of Dr. Jamieson detailed in Mr. Aaron's letter of December 18, 2012. In that letter Mr. Aaron requests the following

“Nature of opinion requested

We are requesting that you commence your review of the facts and documents referenced below and provide your opinion, with background reasons supporting your opinion as to:

1. What valid security, human rights, public health and environmental concerns arise in relation to Fortis’ proposed AMI Project? What scientific research and/or review material supports your position in that regard?
2. To the extent that such valid concerns exist, what measures would you recommend be taken to address such concerns?
3. Please comment particularly on Fortis’ answer to CSTS IR#1, question 27 regarding concern over the potential impact of the AMI Project on pollinating insects and/or birds? Please comment further on Fortis’ statement that:
 - [Q:] Birds and bees are widely reported to ‘sense’ the earth’s static geomagnetic field or man-made sources of static magnetic fields.
 - [A:] Exponent is not aware of a body of scientific evidence that confirms any adverse effect of RF fields on bees or birds at the frequencies and intensities of RF fields produced by the FortisBC advanced meters.
 - By way of appendix to your opinion, please provide a copy of any materials, studies, articles or reports on which you rely in formulating your opinion.”

(Fortis AMI Hearing Exhibit C9-10-2)

The Panel notes that the number of questions asked of Dr. Jamieson was fewer than the number asked of Drs. Blank, Carpenter, Maisch, Maret and Sears. (Fortis AMI Hearing Exhibit C9-8)

Dr. Jamieson was tendered and accepted as an expert witness to provide opinion evidence as “an environmental scientist with expertise in environmental health, in particular expertise in exposure to radio frequency emissions and the environmental health implications of same.” A caveat was placed on his expertise noting that he was not an expert on the law. With this caveat placed on his expertise noting that he was not an expert on the law, no weight was given to this portion of his evidence. Also, Dr. Jamieson was not tendered or accepted as an expert on security and for this reason no weight was given to this portion of his evidence.

In the Decision the Panel reached the following conclusion on the expert evidence of Dr. Jamieson:

“Dr. Jamieson, when challenged with the proposal that not all studies indicate that there is a link between EMF exposures and negative health effects, responded: “Indeed. Basically the approach I’ve taken with regards to writing the document is to raise awareness of studies where it’s been indicated there may be a cause for concern so that debate can be opened with BCUC ...” (T10:2008).

“In choosing a particular subset of studies in order to open debate with the Commission, Dr. Jamieson strayed from providing objective expert evidence to assist the Panel, into the role of an advocate in support of a particular position. Given the deficiencies as noted above in many of the studies that Dr. Jamieson relied on to reach conclusions in his report, and his admitted practice of deliberately choosing studies that advocate a particular position, the Panel places little weight on this portion of Dr. Jamieson’s evidence.” (FortisBC AMI Decision, pp. 23-24)

Having reached this conclusion in the Decision, the Panel determines that CTCS should be awarded 5.5 days for the evidence of Dr. Jamieson following the guideline in Figure 3.

Dr. Schoechle

Dr. Schoechle did not give evidence at the oral hearing. In the Decision, the Panel reached the following conclusion on the expert evidence of Dr. Schoechle:

“Dr. Schoechle, while making comments in his paper on health, environment, safety and privacy issues associated with smart meters, does not appear to have personal expertise in any of these areas. In response to information requests, Dr. Schoechle demonstrated that he was not aware of the specifics of the FortisBC advanced metering infrastructure proposed in the Application or of the role and policies of regulators in British Columbia and Canada. (Exhibit C9-14, CEC 7.6-7.7; Exhibit C9-13, FortisBC 6.7, 6.8) CSTS does not rely on the evidence of Dr. Schoechle in its Final Submission.

Given Dr. Schoechle’s educational background and experience and his lack of knowledge of the specifics of the Application, the Panel finds that no weight can be given to Dr. Schoechle’s evidence.” (FortisBC AMI Decision, p. 37)

The guidelines outlined in Figure 3 assume the expert would have read the relevant material and provide for a time allowance for this work. As detailed above it was not evident that Dr. Schoechle had accumulated this knowledge. The Panel must conclude that he had not taken the time to read the material or did not understand it. Dr. Schoechle did not contribute to a better understanding of the issues by the Commission. For these reasons and considering the finding of the Panel as cited above, no award is made for Dr. Schoechle’s time.

CSTS Final Award

While the Commission recognizes the contribution by CSTS to the Proceeding, fairness to FortisBC ratepayers makes it important to ensure that the costs borne by ratepayers are reasonable from the perspective that Interveners being reimbursed should engage resources and use them in the most cost effective manner possible. Accordingly, CSTS is awarded \$157,720 plus expenses of \$4,946 for a total of \$162,666.00 inclusive of applicable taxes. As noted above CSTS was awarded an interim PACA payment of \$25,000.00 by Order F-8-13. This amount is deducted from the total award approved by this Order for a net payment to CSTS of \$137,666.00. **Accordingly, the Panel directs FortisBC to reimburse CSTS for the amount of \$137,666.00 inclusive of expenses and applicable taxes.**

| Task | Legal | Case Manager | Consultant | Dr. Blank | Dr. Carpenter | Dr. Maisch | Dr. Maret | Dr. Sears | Dr. Jamieson | Total |
|---------|----------|--------------|------------|-----------|---------------|------------|-----------|-----------|--------------|-------------------------|
| Total | 46 | 3 | 22 | 5 | 5.5 | 5 | 3.5 | 5.5 | 5.5 | |
| Rate | \$1,600 | \$500 | \$1,250 | \$1,450 | \$1,450 | \$1,450 | \$1,450 | \$1,305 | \$1,450 | |
| Amount | \$73,600 | \$1,500 | \$27,500 | \$7,250 | \$7,975 | \$7,250 | \$5,075 | \$7,178 | \$7,975 | |
| Taxes | 1.12 | 1.05 | 1.05 | 1.05 | 1.05 | 1.05 | 1.05 | 1.05 | 1.05 | |
| Total | \$82,432 | \$1,575 | \$28,875 | \$7,613 | \$8,374 | \$7,613 | \$5,329 | \$7,536 | \$8,374 | 157,720 |
| Interim | | | | | | | | | | Less Interim PACA Award |
| | | | | | | | | | | Plus approved expenses |
| | | | | | | | | | | Total |
| | | | | | | | | | | \$-25,000 |
| | | | | | | | | | | \$4,946 |
| | | | | | | | | | | \$137,666 |

3.7 Joe Tatangelo

Mr. Tatangelo submitted a budget of \$490.00 on April 22, 2013 for mileage and secretarial services for his participation in the Proceeding. The mileage claim was for \$90.00 (180 kms @ \$0.50 per km) for travel to the "Trail hearing" according to Mr. Tatangelo's application. The Panel notes that Mr. Tatangelo spoke at the Trail Community Input Session along with numerous other citizens. The PACA Guidelines are clear that PACA funding does not apply to "town hall meeting days" and therefore the Panel does not approve PACA funding for participation in the Community Input Session. Mr. Tatangelo's application included a claim of \$400.00 for secretarial services for "3 replies to Fortis". Mr. Tatangelo, who lives in the FortisBC service territory, provided IR's in the Proceeding and contributed to a better understanding of certain issues in the Proceeding. The Panel therefore approves expenses for \$400.00 as reasonable and determines a PACA award for Mr. Tatangelo's participation to be \$400.00.