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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-35-14**

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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 FortisBC Inc.
Application for Demand Side Management
Expenditures for the Period from 2015 to 2016

BEFORE: B. A. Magnan, Panel Chair/Commissioner
I. F. MacPhail, Commissioner December 22, 2014
C. A. Brown, Commissioner

O R D E R

WHEREAS:

- A. On August 11, 2014, FortisBC Inc. (FBC) applied to the British Columbia Utilities Commission (Commission) pursuant to section 44.2 of the *Utilities Commission Act* (UCA) for acceptance of Demand Side Management (DSM) expenditures for the period from 2015 to 2016 (the Application);
- B. By Order G-155-14 dated August 15, 2014, the Commission established a written hearing process and a regulatory timetable to review the Application. The regulatory timetable was subsequently amended by Order G-144-14 and Letter L-52-14;
- C. The review process included one round of written information requests and submissions, and included the participation of the British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO); BC Sustainable Energy Association and the Sierra Club of British Columbia (BCSEA); Commercial Energy Consumers Association of British Columbia (CEC); Industrial Customers Group (ICG) and Zellstoff Celgar Limited Partnership (Celgar);
- D. On October 20, 2014, FBC filed its reply argument;

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- E. Subsequent to the closing of the evidentiary record the following interveners filed applications for Participant Assistance/Cost Awards (PACA Applications):

INTERVENER	REQUESTED AWARD
BC Sustainable Energy Association <i>et al.</i>	\$7,767.94
British Columbia Old Age Pensioners' Organization <i>et al.</i>	\$4,465.13
Commercial Energy Consumers Association of British Columbia	\$8,719.08
Industrial Customers Group	\$14,112.00

- F. On November 21, 2014, the Commission issued letters to FBC requesting comments on the PACA Applications.
- G. On November 25, 2014, FBC provided comments to the Commission on the PACA Applications; and
- H. The Commission reviewed the PACA Applications with regard to the criteria and rates set out in the PACA Guidelines in Commission Order G-72-07 and considered FBC's comments.

NOW THEREFORE for the reasons for decision attached as Appendix A to this order, pursuant to section 118(1) of the *Utilities Commission Act*, the Commission orders as follows:

1. Funding is awarded to the following interveners for their participation in the FortisBC Inc. Demand Side Management Expenditures for the period from 2015 to 2016 Application proceeding as follows:

INTERVENER	AWARD
BC Sustainable Energy Association <i>et al.</i>	\$7,767.94
British Columbia Old Age Pensioners' Organization <i>et al.</i>	\$4,465.13
Commercial Energy Consumers Association of British Columbia	\$8,719.08
Industrial Customers Group	\$10,080.00

2. FortisBC Inc. is directed to reimburse the above participants for the respective amounts that have been awarded in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 22nd day of December 2014.

BY ORDER

Original signed by:

B. A. Magnan
Panel Chair/Commissioner

Attachment

Orders/F-35-14-FBC-DSM PACA and Reasons

Applications for Participant Assistance/Cost Awards
in the FortisBC Inc.
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Expenditures for the Period from 2015 to 2016

REASONS FOR DECISION

The Commission Panel reviewed the four Participant Assistance Cost Award (PACA) Applications while taking into consideration the PACA Guidelines as set out in Commission Order G-72-07 and FortisBC Inc.'s (FBC) comments on the PACA Applications (letter dated November 25, 2014).

The British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO), BC Sustainable Energy Association and the Sierra Club of British Columbia (BCSEA), and Commercial Energy Consumers of BC (CEC) PACA Applications are all within the PACA Guidelines set out in Order G-72-07 and no concerns were raised by FBC. The Panel finds that these interveners have met the criteria for eligibility for PACA funding and costs claimed are fair and reasonable. **Therefore, the Panel is awarding each of these interveners the full amount of their PACA request.**

The Industrial Customers Group's (ICG) PACA Application is for 7 legal counsel days for a total claim of \$14,112 including taxes. ICG submits that eligibility has been established and that a participant funding award of \$14,112 would be a reasonable and fair award.

The PACA Guidelines (page 4) state that the Commission Panel may award costs for preparation days, typically on a ratio of up to 2 days per proceeding day (defined as including workshop days, negotiation days, pre-hearing conference days, hearing days and or argument days). ICG submits that it participated in the FortisBC Inc. Demand Side Management Expenditures for the period from 2015 to 2016 Application proceeding (FBC DSM Proceeding or Proceeding) without the assistance of a consultant, and is therefore requesting a PACA funding ratio of 3:1 preparation days/proceeding days. ICG submits that the 3:1 ratio was also requested in the 2012-2013 FBC Revenue Requirement Application and Review of Integrated System Plan (RRA & ISP) proceeding (PACA awards were approved through Order F-13-12).

FBC, in its letter dated November 25, 2014, submits that ICG's PACA Application is not in accordance with the PACA Guidelines as: (i) legal days claimed for legal counsel appears high compared to those of other applicants while ICG's participation was not more extensive than that of other interveners; (ii) no statement of costs was provided by ICG to detail what efforts were expended and where; and (iii) ICG has not justified why participation in the Proceeding requires the use of a consultant and why additional time from its legal counsel was required as a result of choosing not to engage a consultant. FBC therefore submits that ICG's PACA Application should be reduced to at most 5 claimed days at the reduced consultant rate per day (\$7,000 including taxes).

In a letter sent to ICG dated September 29, 2014, Commission staff estimated the number of funding days allowed in the Proceeding could be up to five days for legal counsel and up to five days for consultant. The letter also stated that Commission staff advice is not binding on the participant or the Commission Panel, and the determination of any cost award will be made by the Commission Panel upon application after the Proceeding.

The Commission Panel have reviewed ICG's PACA Application and its level of participation in this Proceeding. The Panel considers that ICG meets the "substantial interest in a substantial issue" criterion, will be affected by the outcome of the Proceeding, and has contributed to a better understanding of the issues. The Panel considers that the key issue is whether the costs incurred by ICG for the purpose of participating in the Proceeding are fair and reasonable.

ICG have requested a PACA funding ratio of 3:1 preparation days/proceeding days as it participated in this Proceeding without the assistance of a consultant. ICG submits that this was requested in the 2012-2013 FBC RR & ISP proceeding. However, the FBC DSM proceeding was a written proceeding only with no 'proceeding days'. This makes the issue of determining an appropriate ratio of preparation days to proceeding days not relevant to this proceeding. In addition, Order F-13-12 did not include reasons and so the appropriateness of ICG's 3:1 preparation days/proceeding days request in that proceeding was not specifically addressed. The Panel will instead approach ICG's PACA Application for this Proceeding by considering ICG's total funding request and the level of ICG's participation.

ICG's PACA Application did not provide a breakdown of its costs to detail what efforts were expended and where, and ICG submits that it has only used legal counsel. The Panel considers that the proceeding was sufficiently complex to justify consultant support (BCOAPO and CEC used a consultant). However, given that ICG has only used legal counsel, the Panel will review the reasonableness of ICG's funding request on this basis.

The Panel considers that ICG contributed to a better understanding of the issues by the Commission, albeit focused on industrial DSM. However, the Panel considers that the level of participation by ICG was not substantially higher than those of other participants, while the funding request is significantly higher. In light of the length and size of this proceeding and ICG's contributions, the Panel finds that an award of five days of legal counsel would be fair and reasonable.

Therefore, the Commission Panel has reduced ICG's award by \$4,032.00 ($(\$1800 \times 2) * 1.12$) to account for the excess legal time claimed. **The Panel finds that the adjusted cost award is \$10,080.00 including taxes.**