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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-1-15**

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

and

**British Columbia Sustainable Energy Association
and the Sierra Club of British Columbia regarding an
Application for Reconsideration of Orders F-28-14 and Order F-29-14**

BEFORE: D.M. Morton, Commissioner/Panel Chair
D.A. Cote, Commissioner January 8, 2015
N.E. MacMurchy, Commissioner

O R D E R

WHEREAS:

- A. By Orders F-28-14 and F-29-14, dated October 27, 2014, the British Columbia Utilities Commission (Commission) approved the Participant Assistance/Cost Award (PACA) funding to participants involved with the Performance Based Ratemaking proceedings from FortisBC Energy Inc. and FortisBC Inc. (collectively, FortisBC) for the period of 2014 through 2019 (PBR proceedings);
- B. On November 10, 2014, the B. C. Sustainable Energy Association and the Sierra Club of B.C. (BCSEA-SCBC) filed a reconsideration request pertaining to the above Orders. BCSEA-SCBC submit that the Commission's decision to reduce its PACA funding by \$100,000 is a result of an error of fact or law (Reconsideration Request);
- C. By letter dated November 19, 2014, the Commission established Phase One of the reconsideration process to consider BCSEA-SCBC's application and invited comments from FortisBC to address whether the reconsideration of Orders F-28-14 and F-29-14 is warranted;
- D. By letter dated December 2, 2014, FortisBC submits that BCSEA-SCBC has established a prima facie case sufficient to warrant full reconsideration by the Commission;
- E. By letter dated December 5, 2014, BCSEA-SCBC indicated that it had no further reply submissions to FortisBC's comments; and

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-1-15**

2

F. The Commission has reviewed the Reconsideration Request and FortisBC's submission and has re-examined BCSEA-SCBC's participation in the PBR proceedings.

NOW THEREFORE, the Commission determines that BCSEA-SCBC have failed to make a prima-facia case to warrant a full reconsideration of Orders F-28-14 and F-29-14. Accordingly, this reconsideration will not proceed to Phase 2.

DATED at the City of Vancouver, in the Province of British Columbia, this 8th day of January 2015.

BY ORDER

Original signed by:

D.A. Morton
Commissioner/Panel Chair

Attachment

British Columbia Sustainable Energy Association
and the Sierra Club of British Columbia regarding an
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REASONS FOR DECISION

1.0 Background

On June 10, 2013, Fortis BC Energy Inc. (FEI) filed its Application for Approval of a Multi-Year Performance Based Ratemaking Plan for 2014 through 2018 (FEI PBR). On July 5, 2013, FortisBC Inc. (FBC) also filed its Application for Approval of a Multi-Year Performance Based Ratemaking Plan for 2014 through 2018 (FBC PBR). In accordance with Orders G-150-13 and G-151-13, certain portions of the proceedings were combined and proceeded by way of an oral hearing (PBR Methodology). The remaining portions proceeded by way of a written hearing (non-PBR Methodology).

On September 17, 2013, B.C. Sustainable Energy Association and Sierra Club of B.C. (BCSEA-SCBC) submitted two Participant Assistance Cost Award (PACA) budget estimate letters, one for each application. The budgets estimated a total of \$103,609 per application, detailed as follows:

	FEI	FBC	Total
<i>Legal:</i>			
Non-PBR Methodology	\$40,520	\$40,520	\$81,040
PBR Methodology	\$18,144	\$18,144	\$36,288
<i>Case Manager:</i>			
Non-PBR Methodology	\$10,500	\$10,500	\$21,000
PBR Methodology	\$5,445	\$5,445	\$10,890
<i>Expert:</i>			
Non-PBR Methodology	\$29,000	\$29,000	\$58,000
PBR Methodology	\$0	\$0	\$0
Total	\$103,609	\$103,609	\$207,218

On September 30, 2013, Commission staff responded by letter to BCSEA-SCBC's budget estimate letters. In the letter, staff noted that the daily rates of \$1,800 for legal counsel, \$500 for case manager and \$1,450 for experts appear to be in accordance with PACA Guidelines. In accordance with the PACA Guidelines,¹ staff informed BCSEA-SCBC that it may be at risk for a portion of the costs, as a result of BCSEA-SCBC's limited interests in the proceedings, noting that staff considered the estimated number of days to be high for both the written and the oral portion of the proceedings. Staff summarized BCSEA-SCBC's time estimates as follows:

¹ Appendix A to Order G-72-07 (PACA Guidelines).

FEI Non PBR			FBC Non PBR			Joint PBR		
Case Manager	Legal	Expert	Case Manager	Legal	Expert	Case Manager	Legal	Allocation
# days			# days			# days		FEI FBC
20	20	20	20	20	20	18	18	50% 50%

On July 31, 2014, BCSEA-SCBC submitted two PACA applications, one with regard to the FEI PBR, the other for the FBC PBR. BCSEA-SCBC's PACA applications, split by PBR Methodology and non-PBR Methodology, are summarized as follows:

	FEI	FBC	Total
PBR Methodology	\$22,048	\$22,048	\$44,096
Non-PBR Methodology	\$92,808	\$123,048	\$215,856
Total	\$114,856	\$145,096	\$259,952

All of BCSEA-SCBC's expert costs are billed as non-PBR Methodology, while all of the PBR Methodology consists of Legal Counsel and Case Manager, in the following amounts:

	FEI		FBC		Total	
	Days	Cost	Days	Cost	Days	Cost
Legal	9.6	19,405	9.6	19,405	19.2	38,810
Case Manager	3.9	\$2,643	3.9	\$2,643	7.8	5,286
Total	13.5	\$22,058	13.5	\$22,048	27	\$44,096

The cost allocations for non-PBR Methodology are as follows:

	FEI		FBC		Combined	
	Days	Cost	Days	Cost	Days	Cost
Legal	21.3	\$42,961	21.3	\$43,863	42.6	\$86,824
Case Manager	21.3	\$11,747	16.9	9,395	38.8	\$21,142
Experts	29.5	\$38,100	51.9	\$69,789		\$107,889
Total	72.1	\$92,808	90.1	\$123,047	88.4	\$215,855

On October 27, 2014, by Orders F-28-14 and F-29-14 (PACA Decisions), the Commission approved an award totalling \$159,952.35 to BCSEA-SCBC, a reduction of \$100,000 to the applied for amount. In the PACA Decisions, the Commission stated that "[g]iven BCSEA's narrow focus in the proceeding and the significant expert cost overruns, the Commission is not persuaded that BCSEA's application for costs is fair and reasonable."² The Commission also established a maximum award of 45 days for those interveners who participated in both proceedings.

2.0 BCSEA-SCBC Reconsideration Request

On November 10, 2014, BCSEA-SCBC requested a reconsideration of the Commission's decision that BCSEA-SCBC are not ratepayer groups and that BCSEA-SCBC's cost award application is to be reduced by \$100,000

² Orders F-28-14 and F-29-14, Appendix A, p. 6.

(Reconsideration Request). In their Reconsideration Request, BCSEA-SCBC stated that the reduction of \$100,000 is arbitrary and an excessively large amount that it is a “tremendous financial blow”³ to its organization. They also submitted that the cutback, and the finding that BCSEA and SCBC are not ratepayer groups has “a serious chilling effect on the ability of groups representing environmentally minded ratepayers to participate on an equal footing with other interveners in Commission proceedings.”⁴

In its Reconsideration Request, BCSEA-SCBC described what it considered to be specific errors of fact and law that warrant reconsideration as follows:

1. The Commission erred in finding that BCSEA and SCBC did not identify themselves as ratepayer groups;
2. The Commission erred in finding that BCSEA and SCBC are not ratepayer groups;
3. The Commission erred in applying the PACA Guidelines’ restrictive definition of ratepayer group for revenue requirements proceedings;
4. The Commission erred in failing to find that BCSEA-SCBC contributed to the Commission’s better understanding of non-EEC/DSM issues; and
5. The Commission erred in cutting the cost award for expert witnesses on the irrelevant grounds that it did not submit a revised budget estimate.

On November 19, 2014, the Commission initiated Phase One of the reconsideration process and requested comment from FBC/FEI followed by a reply comment from BCSEA-SCBC. In its letter dated December 2, 2014, FEI/FBC stated that it “believes that the errors claimed are substantiated on a *prima facie* basis and can have significant material implications to BCSEA’s ability to participate in future regulatory processes.” Although, FBC/FEI did not comment specifically on any of the issues raised by BCSEA-SCBC in their Reconsideration Request, it stated that:

BCSEA has provided, and continues to provide, valuable involvement and perspective not only on issues such as sustainable and clean energy, energy efficiency and conservation, environment and climate change, but also on issues that more directly impact the utilities’ operations and ultimately rates, such as demand side management and British Columbia’s energy objectives. BCSEA’s participation in and contribution to regulatory proceedings can benefit and has benefited the utilities’ ratepayers in general.

The Panel has reviewed the submissions of BCSEA-SCBC and FEI/FBC and finds that, for the reasons articulated below, BCSEA-SCBC have failed to make a prima-facie case that the Commission made either an error of fact or law in its decision. Accordingly, this reconsideration will not proceed to Phase 2.

2.1 Did the Commission err in finding that BCSEA and SCBC did not identify themselves as ratepayer groups?

In the Reconsideration Request, BCSEA-SCBC state that “the Panel found that BCSEA did not identify itself as a ratepayer group” and that “this finding is patently incorrect.”⁵ BCSEA-SCBC further submit that they expressly

³ Reconsideration Request, p. 5.

⁴ Ibid.

⁵ Ibid., p. 1.

stated “that they represent their members’ interests as ratepayers,”⁶ in their intervention letters, in their budget estimate letters, in their opening statement at in the oral hearing, in their final written argument and in their PACA applications.

In their budget estimate letters, BCSEA-SCBC stated that “BCSEA 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” and that “SCBC 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.” It also stated that its interest in both applications “are as non-profit public interest environmental and energy policy organizations, and as representatives of their members’ interests as ratepayers.”⁷

In their budget estimate letter regarding the FBC PBR, BCSEA-SCBC stated that some of BCSEA’s approximately five hundred individual and corporate members are ratepayers of FBC. Regarding the SCBC, the letter stated that of its 16,000 members, many are ratepayers of FBC. In their budget estimate letter regarding the FEI PBR, BCSEA-SCBC stated that many of SCBC and BCSEA’s members are ratepayers of FEI and the FortisBC Energy Utilities (FEU).

In their Final Argument for the PBR proceedings, BCSEA-SCBC repeated that “[m]any of BCSEA’s members are customers of FortisBC,” that “BCSEA’s goals include sustainable energy, energy efficiency and energy conservation in British Columbia,” and that “SCBC has six local groups and over 16,000 members and supporters across the province, many of whom are ratepayers of FortisBC who want the electricity they purchase to come from a sustainable electricity system.”⁸

BCSEA-SCBC made no opening statement in the oral hearing. However, in the Procedural Conference, in his opening statement, Mr. Andrews stated:

And in terms of significant issues, a point that is very significant and hasn’t been mentioned to date is that each of the few proceedings have also within them, or in tandem, a demand-side management expenditure schedule approval or acceptance request. And so that will be one of the primary focuses of my clients in each of these two proceedings.

In terms of Fortis Electric, it is proposing what my clients view as a substantial cut in DSM spending, and that is a major concern for my clients. Fortis Gas is proposing something that’s closer to business as usual, and there will be issues to do with how it can be improved and so on. In terms of the whole other section of the two proceedings, the PBR revenue requirement approach, my clients have a couple of -- there are issues I’ll identify. One is, first of all, whether there would be, and how to prevent any unanticipated impact of the PBR process on DSM. And I’m not suggesting that there will be. In fact, hopefully there won’t be. But we want to be sure there isn’t. And Mr. Weafer earlier used as an example what could conceivably be an unanticipated impact; that is, if underspending on DSM was somehow dealt with differently under the PBR than it would have under a cost of service approach. I’m not saying that that’s the case, but that would be an example of the type of concern that we would want to ensure

⁶ Reconsideration Request, p. 1.

⁷ BCSEA-SCBC Budget Letters, p. 2.

⁸ FEI-FBC PBR, BCSEA-SCBC Final Argument, p. 4.

didn't exist. Another issue for my clients in terms of the PBR is the performance measure, and the inclusion of environmental impact of a company's operations. And including, for example, GHG emissions as potentially one of the measurable factors on which incentives could be based. In terms of ... Fortis Gas specifically, my clients are deeply interested in the thermal energy, biomethane, and natural gas for transportation areas. And to the extent that those topics arise within the Fortis Gas proceeding under the heading of PBR, my clients would be very -- will be very interested. And I recognize that there is a debate, for example, whether thermal energy is or ought to be included at all. My clients would be interested. Their interests are aligned with the success of those alternative measures, and that would be their perspective on those topics.⁹

In the PACA applications, BCSEA-SCBC stated again that "[a] number of BCSEA's members are ratepayers of FBC" and that many of SCBC's members are ratepayers of FBC."

Commission determination

The Commission did not err in finding that BCSEA and SCBC did not identify themselves as ratepayer groups. BCSEA-SCBC appears to have made no statement in the proceeding that it participated in this proceeding as a "ratepayer group." In their budget letters BCSEA-SCBC stated that BCSEA 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, and that SCBC members care about a broad range of environmental issues. BCSEA-SCBC further stated that some of BCSEA's members are ratepayers of FBC and many of SCBC's members are ratepayers of FBC.¹⁰ These statements were repeated in other exhibits, including the PACA applications and Final Argument. However, at no time did BCSEA-SCBC identify as a "ratepayer group."

2.2 Did the Commission err in finding that BCSEA and SCBC are not ratepayer groups?

BCSEA-SCBC submit that "[t]he panel implicitly found that BCSEA and SCBC are not ratepayer groups and are not eligible for a cost award..." It further submits that this is a necessary implication of the fact that the Panel expressly restricted its evaluation of BCSEA-SCBC's cost award to BCSEA's interests in "sustainable energy, energy efficiency and energy conservation."¹¹

Commission determination

The Commission did not make an implicit finding that BCSEA and SCBC are not ratepayer groups, and therefore did not err in finding that BCSEA and SCBC are not ratepayer groups.

As previously discussed, in their PACA budget estimate letters, BCSEA-SCBC did not identify itself as a ratepayer group.

⁹ T1, p. 79.

¹⁰ BCSEA-SCBC Budget Letters, p. 2.

¹¹ Reconsideration Request, p. 1.

In its PACA Decisions, the Commission noted that BCSEA-SCBC had not identified itself as a ratepayer group, but made no finding in this regard. Instead, the Commission considered the PACA Guideline which states:

The Commission Panel will determine whether a Participant is eligible or ineligible for an award. In determining an award of all or any portion of a Participant's costs, the Commission Panel will first consider whether the Participant has a substantial interest in a substantial issue in the proceeding. If this criterion is not met, the Participant will typically not receive a cost award except, possibly, for out-of-pocket disbursements.¹²

As required by the PACA Guidelines, the Commission appropriately considered and evaluated BCSEA-SCBC's participation in the proceeding on the basis of its interests as outlined in its budget letter, opening statements in the Procedural Conference, PACA application and Final Submission. This is characterized as a "restriction" by BCSEA-SCBC, which it submits leads to an implicit finding that BCSEA-SCBC is not a ratepayer group. The Panel disagrees. This is an appropriate application of the PACA Guidelines.

2.3 Did the Commission err in applying the PACA Guidelines' restrictive definition of ratepayer group for revenue requirements proceedings?

The PACA Guidelines state that "[e]xcept in limited circumstances, it is expected that only ratepayer groups will establish a 'substantial interest in a substantial issue' so as to be eligible for an award in a revenue requirements proceeding. For the purposes of this section, the principal interest of 'ratepayer groups' will be the rate impacts of the revenue requirement to be paid by the ratepayer Participants." BCSEA-SCBC submit that this provision is unlawful for the following reasons:

1. The provision is unduly discriminatory, contrary to the UCA. The discrimination arises because it gives preferential access to funding to ratepayer groups whose principle interest is in low rates. [underline in original]
2. The provision is now inconsistent with the BC energy objectives established by the *Clean Energy Act* in 2010. According to BCSEA-SCBC, low rates are but one of a number of energy objectives, including conservation, efficiency and greenhouse gas emissions.

Commission determination

The Commission did not err in applying the PACA Guidelines.

The Commission correctly applied only the "substantial interest in a substantial issue" test as required by the PACA Guidelines. Regardless of whether BCSEA-SCBC are ratepayer groups or not, the Commission did not apply the more restrictive provision that only a ratepayer group is eligible for an award in a revenue requirements proceeding.

In doing so, the Commission has explicitly acknowledged that the pursuit of issues concerning energy objectives, including conservation, efficiency and greenhouse gas emissions may be considered for PACA funding in revenue requirement proceedings.

¹² Order G-72-07, PACA Guidelines.

2.4 Did the Commission err in failing to find that BCSEA-SCBC contributed to the Commission's better understanding of non-EEC/DSM issues?

BCSEA-SCBC submit that their final argument on PBR issues was “clear, closely reasoned and concise,” and that the Panel erred in failing to take into consideration that it contributed ipso facto to the Commission's understanding of the PBR issue.¹³

In BCSEA-SCBC's view, the Commission erred by not considering substantive contributions by BCSEA-SCBC, citing as an example that its information request elicited evidence from Dr. Lowry that the 0.5% X-Factor proposal by Dr. Overcast, FEI and FBC “is a bargaining position at the low range of what [the utilities] believe they can live with.”¹⁴

BCSEA-SCBC also submit that the Commission discounted its contributions regarding PBR “presumably because the panel considered that BCSEA and SCBC were not ratepayer groups and therefore had ‘no substantial interest’ in whether the Commission accepted or rejected the PBR proposals.” It considers the fact that there was not a single mention of BCSEA-SCBC's position on PBR in the reasons for decision in the PBR proceeding exemplifies the Commission's rejection of BCSEA-SCBC's submissions because the Panel does not consider them to be a ratepayer group.¹⁵

BCSEA-SCBC submit that it participated fully in the PBR aspects of the proceeding, pursuing both its interests in conservation, efficiency and GHG reductions and its interests in fair and reasonable rates and ratemaking.

Specifically, BCSEA-SCBC submit that it addressed the following issues of particular concern to it:

1. Relationship between PBR and DSM (revenue decoupling).
2. Performance indicators and GHG emissions.
3. Natural gas for transportation, biomethane and thermal energy services.¹⁶

However, BCSEA-SCBC concluded that these topics did not materially impact the pros and cons of the particular PBR proposal before the Commission.

In the Final Argument, BCSEA-SCBC devoted over 56 of 59 pages to DSM related issues. In the remaining pages, which related to the PBR, BCSEA-SCBC, identified three issues:

First, issues to do with the components of the PBR plan: the I-factor, the X-factor, the Efficiency Carryover Mechanism, the exclusions, the off-ramp, service quality indicators, the in-term review, and so on. **“BCSEA-SCBC will leave these topics to other parties at this time.”**
[emphasis added]

Second, there are what might be called the “business terms.” By far the most important is the size of the X-factor (productivity factor). FEI-FBC more or less acknowledged in oral testimony that the size of the X-factor is ultimately a matter of either negotiation or fiat. Everyone can

¹³ Reconsideration Request, p. 3.

¹⁴ Ibid., p. 3.

¹⁵ Ibid., p. 4.

¹⁶ Ibid., p. 3.

agree that too large is unacceptable and too small is unacceptable; but where to land? If the Commission does approve a PBR Plan, then BCSEA-SCBC favour an X-factor closer to the size recommended by Dr. Lowry than the size FEI-FBC indicated they could live with.

Third, there are procedural possibilities that might arise if the Commission decides to approve a PBR Plan. For example, there would be an option to have further submissions or a negotiated settlement process or some other form of dialogue to attempt to settle certain aspects of the

Plan, such as the size of the X-factor, the description of SQIs, or the details of the in-term reviews. BCSEA-SCBC are not necessarily proposing these procedural possibilities, but they could be considered.¹⁷

In its PACA Decisions, the Commission stated:

With respect to EEC/DSM issues there was a significant contribution to the Commission Panel's better understanding of the issues. The Commission Panel notes that BCSEA filed evidence totalling 81 pages, participated in the IR process and submitted a lengthy final argument. However, much of what was addressed concerned EEC/DSM or issues related to its core purpose. In the view of the Panel, the few IRs, interrogatories during the oral hearing and positions taken in final argument did little to inform the Commission Panel's understanding of non-EEC/DSM issues and notes that only 2 of its 58-page final argument addressed issues related to the FEI-FBC joint PBR plan. We therefore find BCSEA's overall contribution beyond those related to EEC/DSM to be very limited.¹⁸

Commission determination

The Commission did not err in failing to find that BCSEA-SCBC contributed to the Commission's better understanding of non-EEC/DSM issues.

In the PACA Decisions, the Commission found that: "BCSEA's overall contribution beyond those related to EEC/DSM to be very limited."¹⁹ This finding was made because of the limited amount of submissions BCSEA-SCBC made on the PBR issue. For example, with regard to the components of the PBR plan, BCSEA-SCBC stated: "the I-factor, the X-factor, the Efficiency Carryover Mechanism, the exclusions, the off-ramp, service quality indicators, the in-term review, and so on. BCSEA-SCBC will leave these topics to other parties at this time."²⁰ However, these aspects were the focus of the six day oral hearing along with much of the IR process. They accounted for a significant portion of time through the proceeding and made up a considerable portion of the two PBR decisions.

BCSEA-SCBC recommended rejection of the PBR plan because "the Companies have not established in the present proceeding that the particular proposed PBR mechanism would actually be an improvement over the existing cost of service ratemaking mechanism from the perspectives of both the FEI-FBC ratepayers and the two utilities."²¹ It summarized its concerns in this regard by stating that it believes "the risks to ratepayers of the PBR

¹⁷ FEI-FBC PBR, BCSEA-SCBC Final Argument, p. 57.

¹⁸ Orders F-28-14 and F-29-14, Appendix A, p. 5.

¹⁹ Ibid.

²⁰ FEI-FBC PBR, BCSEA-SCBC Final Argument, p. 57.

²¹ Ibid.

Plan are more tangible than the potential benefits of the PBR Plan.”²² However, it provided no further analysis. It did not describe the risks and potential benefits and made no attempt to assess them in a quantitative or even qualitative manner.

Further, BCSEA-SCBC submitted that “[i]f the Commission does approve a PBR Plan, then BCSEA-SCBC favour an X-factor closer to the size recommended by Dr. Lowry than the size FEI-FBC indicated they could live with.”²³ Again, it provided no analysis to support this position. Accordingly this submission was of little value to the Panel in making its final determinations on the two PBR decisions.

BCSEA-SCBC did not provide any comment or analysis in its Final Argument regarding the relationship between PBR and DSM. Nor did it pursue the relationship between performance indicators and GHG emissions. Neither of these issues are necessarily a shortcoming in BCSEA-SCBC’s intervention, nor were they considered in making the PACA Award determinations. Thus, it is unclear why BCSEA-SCBC raise these issues in its Reconsideration Request.

2.5 Did the Commission err in cutting the cost award for expert witnesses because it did not submit a revised budget estimate?

BCSEA-SCBC submit that the Commission “justified the drastic cut in BCSEA-SCBC’s recovery of expert witness costs on the basis of the criticisms involving BCSEA-SCBC’s original budget estimate, the staff review letter and the fact that BCSEA-SCBC did not supply a revised budget estimate.”²⁴

Commission staff’s letter of September 30, 2013, expressed concern that given the limited nature of BCSEA’s interests in these proceedings, its projected number of days is high for both the written and oral portion of the proceeding. Staff advised that BCSEA-SCBC might be at risk for a portion of the costs.

Commission determination

The Commission cut the budget award for the reasons discussed below. It did not cut the cost award for expert witnesses because BCSEA-SCBC did not submit a revised budget estimate. Therefore, the Panel does not accept the argument of BCSEA-SCBC that the Commission made an error on the grounds that there was no revised budget estimate submitted.

The Commission gave the following reason for cutting the award:

Given BCSEA’s narrow focus in the proceeding and the significant expert cost overruns, the Commission Panel is not persuaded that BCSEA’s application for costs is fair and reasonable. In spite of BCSEA’s relatively narrow primary focus on EEC/DSM issues, the days and costs submitted substantially exceed those of BCPSO who contributed on a broader range of issues.²⁵

²² FEI-FBC PBR, BCSEA-SCBC Final Argument, p. 57.

²³ Ibid., p. 58.

²⁴ Orders F-28-14 and F-29-14, p. 4.

²⁵ Ibid., p. 5.

The Commission made an overall assessment of the contributions made by the two intervener organizations. Further, it also assessed the number of legal and case manager time and found it to be excessive when compared to both the maximum days allowed and the number of days awarded to other interveners.

The revised budget estimate had no bearing on the Commission's decision.

3.0 Is the reduction arbitrary and an excessively large amount?

In the Reconsideration Request, BCSEA-SCBC state that the reduction of \$100,000 is arbitrary and an excessively large amount.²⁶

Commission determination

The Panel finds that the reduction is not arbitrary. In making this finding, the Panel notes that the Commission gave due consideration to the following factors:

1. A significant reduction to the PBR Methodology component of the application (\$44,096) due to the limited contribution made by BCSEA-SCBC in this area.
2. The overall contribution of BCSEA-SCBC relative to other intervener groups and to the award sought by those groups.
3. The amount of time invoiced exceeds the maximum award set by the Panel. BCSEA-SCBC were informed by staff its original budget may be high. Although the Panel ultimately set a maximum budget larger than staff has relied on for its budget letter to BCSEA-SCBC, BCSEA-SCBC's requested PACA applications exceed its original estimates and the maximum award set by the Panel.

Further, the Panel disagrees with the characterization by BCSEA-SCBC that the reduction is an "excessively large amount." The Panel used its best judgment to determine an appropriate amount as explained above in these reasons. This amount is based on the reasons as set out in the PACA Decisions and restated above.

²⁶ Reconsideration Request, p. 5.