



**ORDER NUMBER**  
**F-26-18**

IN THE MATTER OF  
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

British Columbia Hydro and Power Authority  
Inquiry of Expenditures related to the adoption of the SAP Platform  
British Columbia Utilities Commission Action on Complaint

Application for Participant Assistance/Cost Awards

**BEFORE:**

D. M. Morton, Panel Chair/Commissioner  
H. G. Harowitz, Commissioner  
R. I. Mason, Commissioner

on October 17, 2018

**ORDER**

**WHEREAS:**

- A. On December 10, 2015, the British Columbia Utilities Commission (BCUC) received a letter dated December 8, 2015 from Adrian Dix, which made a number of statements and allegations against the British Columbia Hydro and Power Authority (BC Hydro) pertaining to its conversion to SAP as its Information Technology platform;
- B. On May 3, 2016, the BCUC issued Order G-58-16 establishing an inquiry to review BC Hydro's expenditures related to the adoption of the SAP platform (SAP Inquiry);
- C. The regulatory process, established by Orders G-62-16, G-81-16, G-146-16, G-168-16, G-26-17, G-86-17, G-92-17, G-170-17 and G-181-17, included among other things, two procedural conferences, BC Hydro's filing of consolidated information addressing the five SAP Inquiry scope items, BC Hydro's filing of witness statements, BC Hydro's filing of documents related to a code of complaint and investigation into the code of conduct complaint, three rounds of BCUC and intervener information requests, and written final and reply arguments;
- D. The following interveners registered in the SAP Inquiry:
  - British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO);
  - Commercial Energy Consumers Association of BC (CEC);
  - Adrian Dix;
  - Movement of United Professionals;
  - James Laurence Group Inc.; and
  - Ilse Leis;

- E. On September 7, 2018, the BCUC issued its report on the SAP Inquiry;
- F. The following participants filed Participant Assistance/Cost Award (PACA) applications with the BCUC with respect to their participation in the SAP Inquiry:

Date	Participant	Application
November 7, 2017	Adrian Dix	\$90,121.53
April 9, 2018	Commercial Energy Consumers Association of BC	\$62,357.02
July 4, 2018	British Columbia Old Age Pensioners' Organization <i>et al.</i>	\$19,107.16

- G. By letter dated September 24, 2018, BC Hydro provided comments on the PACA applications, stating that it observes inconsistent claims for funding among the applications related to the eligible costs and rates, as certain participants have used the rates specified in the PACA Guidelines approved by Order G-72-07 (2007 PACA Guidelines), whereas other participants have used the rates specified in the amended PACA Guidelines approved by Order G-143-16 (2016 PACA Guidelines);
- H. On September 28, 2018 and October 1, 2018, CEC and Dix, respectively, responded to BC Hydro's comments. CEC stated that it would be fair to apply the 2016 PACA Guidelines to all costs and rates incurred on or after August 31, 2016 given the significant unanticipated delay in proceeding with the bulk of the SAP Inquiry. CEC also filed a revised PACA application based on its submission totalling \$90,271.48;
- I. On October 9, 2018 and October 15, 2018, CEC and BCOAPO, respectively, responded to clarification requests from the BCUC. BCOAPO filed a revised PACA application as part of its submission totalling \$16,245.29; and
- J. The BCUC has reviewed the PACA applications and finds it appropriate to apply the criteria and rates set out in the 2007 PACA Guidelines to the participants' time spent on the SAP Inquiry prior to August 31, 2016 and to apply the criteria and rates set out in the 2016 PACA Guidelines to the participants' time spent on the SAP Inquiry on or after August 31, 2016, which is the date that the 2016 PACA Guidelines came into effect.

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

1. Funding is awarded to the following participants in the listed amounts for their participation in the SAP Inquiry:

Participant	Award
British Columbia Old Age Pensioners' Organization <i>et al.</i>	\$16,245.29
Commercial Energy Consumers Association of BC	\$90,271.48
Adrian Dix	\$88,554.86

2. BC Hydro is directed to reimburse the above-noted participants for the awarded amount in a timely manner.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 17<sup>th</sup> day of October 2018.

BY ORDER

*Original signed by:*

D. M. Morton  
Commissioner

Attachment

British Columbia Hydro and Power Authority  
Inquiry of Expenditures related to the adoption of the SAP Platform  
British Columbia Utilities Commission Action on Complaint  
Application for Participant Assistance/Cost Awards

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REASONS FOR DECISION

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**1.0 Background**

On December 10, 2015, the British Columbia Utilities Commission (BCUC) received a letter dated December 8, 2015 from Adrian Dix, which made a number of statements and allegations against the British Columbia Hydro and Power Authority (BC Hydro) pertaining to its conversion to SAP as its Information Technology platform.

On May 3, 2016, the BCUC issued Order G-58-16 establishing an inquiry to review BC Hydro's expenditures related to the adoption of the SAP platform (SAP Inquiry).

On May 9, 2016, pursuant to Order G-62-16, the BCUC established a preliminary regulatory timetable that included intervenor registration and a procedural conference to discuss the SAP Inquiry's process, timing and scope.

The following interveners registered in the SAP Inquiry:

- British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO);
- Commercial Energy Consumers Association of BC (CEC);
- Adrian Dix;
- Movement of United Professionals;
- James Laurence Group Inc.; and
- Ilse Leis.

Subsequent to the procedural conference held on June 1, 2016, the BCUC issued Order G-81-16 which confirmed the scope of the SAP Inquiry and established a regulatory timetable, including BC Hydro's filing of consolidated information, one round of BCUC and intervenor information requests (IRs) and a second procedural conference.

Additional processes in the SAP Inquiry were established by Orders G-146-16, G-168-16, G-26-17, G-86-17, G-92-17, G-170-17 and G-181-17, and included, among other things, the filing of witness statements by BC Hydro, one round of BCUC and intervenor IRs on the witness statements, the filing of a code of conduct complaint and associated materials related to a code of conduct investigation (Code of Conduct Filing), one round of IRs on the Code of Conduct Filing, and written final and reply arguments.

On September 7, 2018, the BCUC issued its report on the SAP Inquiry.

The following interveners filed Participant Assistance/Cost Awards (PACA): BCOAPO, CEC and Adrian Dix.

By letter dated September 24, 2018, BC Hydro provided comments on the PACA applications. BC Hydro stated that it finds the applications substantially meet the criteria for funding under the PACA Guidelines issued under Order G-72-07 (2007 PACA Guidelines), which are the guidelines in effect at the time that the SAP Inquiry was established. However, BC Hydro observes inconsistent claims for funding among the applications related to the

eligible costs and rates, as certain participants have used the rates specified in the 2007 PACA Guidelines, while other participants have used the rates specified in the amended PACA Guidelines approved by Order G-143-16 (2016 PACA Guidelines), or a combination of both.

On September 28, 2018, CEC responded to BC Hydro's comments, stating that it would be fair to apply the 2016 PACA Guidelines to all costs and rates incurred on or after August 31, 2016 given the significant unanticipated delay in proceeding with the bulk of the SAP Inquiry. CEC also provided a revised PACA application with its submission which separated the costs and time incurred prior to the 2016 PACA Guidelines being issued and the costs and time incurred after the 2016 PACA Guidelines were issued.

On October 1, 2018, counsel for Adrian Dix responded to BC Hydro's comments.

On October 9, 2018 and October 15, 2018, CEC and BCOAPO, respectively, responded to clarification requests from the BCUC. BCOAPO filed a revised PACA application as part of its submission totalling \$16,245.29.

## **2.0 PACA guidelines**

The 2007 PACA Guidelines were established by Order G-72-07 and were effective commencing July 5, 2007.

On August 31, 2016, the BCUC issued Order G-143-16 which approved amended PACA Guidelines. These guidelines were ordered to be effective "for all proceedings initiated on or after August 31, 2016." As part of the 2016 PACA Guidelines, the daily rates for legal counsel and consultants were increased.

As noted previously, the SAP Inquiry was established on May 3, 2016. The initial regulatory timetable, which included intervenor registration and a procedural conference, was established by the BCUC on May 9, 2016. The following processes occurred prior to the 2016 PACA Guidelines being issued:

- Intervenor registration;
- The first procedural conference;
- BC Hydro's filing of consolidated information; and
- BCUC and intervenor IR No. 1.

The above-noted processes occurred between the time period of May 3, 2016 and August 4, 2016.

The remainder of the processes occurred subsequent to the issuance of the 2016 PACA Guidelines, concluding with written final arguments filed by BC Hydro, CEC and Ilse Leis on January 31, 2018, February 19, 2018 and February 16, 2018, respectively, and BC Hydro's written reply argument on March 5, 2018.

### 3.0 PACA applications

The following table summarizes the PACA applications submitted by the participants with respect to the SAP Inquiry:

Participant	Application
BCOAPO	\$19,107.16
BCOAPO (revised PACA application filed with October 15, 2018 submission)	\$16,245.29
CEC	\$62,357.02
CEC (revised PACA application filed with September 28, 2018 submission)	\$90,271.48
Adrian Dix	\$90,121.53

CEC is composed of members who are commercial class customers of BC Hydro. In its original PACA application filed on April 9, 2018, CEC requested a cost award of \$62,357.02 based on \$37,719.36 for legal counsel fees (18.71 days), \$24,609.38 for consultant fees (18.75 days) and \$28.28 for disbursements, inclusive of applicable taxes. CEC's original PACA application was based on rates and costs consistent with the 2007 PACA Guidelines.

In CEC's revised PACA application filed on September 28, 2018, CEC requested a cost award of \$90,271.48. In this revised application, CEC distinguished between the time and costs incurred before and after the 2016 PACA Guidelines were issued.

BCOAPO is a group of community-based organizations who collectively represent the interests of low and fixed income residential ratepayers in BC. BCOAPO requested a cost award of \$19,107.16 based on \$17,528 for legal counsel fees (8 days), \$1,562.50 for consultant fees (1.25 days) and \$16.66 for disbursements, inclusive of applicable taxes. BCOAPO's PACA application filed on July 4, 2018 included the costs and rates eligible under the 2016 PACA Guidelines for its legal counsel and the costs and rates eligible under the 2007 PACA Guidelines for its consultant.

On October 9, 2018, the BCUC requested clarification as to why BCOAPO applied the 2016 PACA Guidelines to all of its legal counsel time whereas it applied the 2007 PACA Guidelines to all of its consultant's time. BCOAPO responded on October 15, 2018 that this was done in error and filed a revised PACA application which distinguished between the time and costs incurred before and after the 2016 PACA Guidelines were issued.

Adrian Dix is the originator of the complaint against BC Hydro. On July 31, 2017, Dix notified the BCUC through his legal counsel that he would not be making any further submissions in the SAP Inquiry due to his appointment as Minister of Health in the BC Provincial Government. Dix's legal counsel is the party applying for a PACA award. Dix's legal counsel requested a cost award of \$90,121.53 based on \$87,075.87 for legal counsel fees (38.1 days) and \$3,045.66 for disbursements, inclusive of applicable taxes. Dix's PACA application filed on November 7, 2017 included the costs and rates eligible under the 2016 PACA Guidelines for legal counsel's work performed after August 31, 2016 and the costs and rates eligible under the 2007 PACA Guidelines for work performed prior to August 31, 2016.

#### 4.0 BCUC determination

The Panel finds that BCOAPO, CEC and Dix are eligible for PACA funding in the SAP Inquiry. BCOAPO and CEC represent ratepayer groups with a substantial interest in a substantial issue, and Dix, while not a ratepayer group, was the originator of the complaint and the impetus for the establishment of the SAP Inquiry. Each participant contributed to a better understanding by the Panel of the issues and the Panel finds that the parties' descriptions of the work and time spent on the SAP Inquiry are reasonable.

The Panel notes that there are inconsistencies in the parties' original PACA applications regarding rates and costs, as some parties used the 2007 PACA Guidelines in whole or in part and some parties used the 2016 PACA Guidelines. Overall, these inconsistencies were addressed during the submission process, with CEC and BCOAPO filing revised PACA applications.

While acknowledging the BCUC's directive in the order approving the 2016 PACA Guidelines, the Panel agrees with CEC that the circumstances surrounding the SAP Inquiry are unique and warrant consideration beyond the wording in Order G-143-16. In addition to the majority of the proceeding and associated work occurring subsequent to the issuance of the 2016 PACA Guidelines, the Panel finds the length of time which elapsed between the issuance of the 2016 PACA Guidelines and the conclusion of the SAP Inquiry to be an important determining factor. As noted by CEC, approximately two years had elapsed between the issuance of the 2016 PACA Guidelines and the issuance of the SAP Inquiry Report.

**In consideration of the above, the Panel determines that participant funding will be awarded to BCOAPO, CEC and Adrian Dix by applying the 2007 PACA Guidelines' eligible rates and costs to the time incurred prior to August 31, 2016 and by applying the 2016 PACA Guidelines' eligible rates and costs to the time incurred on or after August 31, 2016.**

The Panel acknowledges that the SAP Inquiry is not the only proceeding where an overlap of the PACA Guidelines has or will occur. In one instance, the BC Hydro F2017–F2019 Revenue Requirements Application proceeding (BC Hydro F2017–F2019 RRA), the BCUC made a different determination regarding the application of the PACA guidelines, stating that the 2007 PACA Guidelines would apply and would “govern the Panel's determination in any PACA award” made in the proceeding.<sup>1</sup> This Panel is not bound by the determinations of other panels in other proceedings and we find that the specific circumstances in the SAP Inquiry, as outlined above, support our approach to determining an appropriate and reasonable amount of funding to be awarded to the parties.

**The Panel therefore approves PACA funding for BCOAPO, CEC and Dix based on the following amounts:**

Participant	Award
British Columbia Old Age Pensioners' Organization <i>et al.</i>	\$16,245.29
Commercial Energy Consumers Association of BC	\$90,271.48
Adrian Dix	\$88,554.86

**BC Hydro is directed to reimburse the above-noted participants for the awarded amounts in a timely manner.**

<sup>1</sup> BC Hydro F2017-F2019 RRA, Procedural Conference, dated September 1, 2016, T6: pp. 214-215.

The Panel notes that the participant funding award approved for Dix is different from the amount requested. The calculations provided in Dix's PACA application appear to be in error, which has resulted in an approved award which is slightly different from what was applied for.

The Panel's calculation of the revised PACA amount for Dix is provided in the following table:

DIX	# of Hours	# of Days	Daily Rate	Award (inclusive of taxes)
Legal Counsel – Prior to August 31, 2016				
Gary Caroline	17.4	2.175	\$1,800	\$4,384.80
Lyndsay Watson	60.1	7.5125	\$1,400	\$11,779.60
John Mosca	9	1.125	\$1,200	\$1,512.00
<b>Legal Fees Prior to August 31, 2016</b>				<b>\$17,676.40</b>
Legal Counsel – After August 31, 2016				
Gary Caroline	44.6	5.575	\$2,800	\$17,483.20
Lyndsay Watson	84.6	10.575	\$2,250	\$26,649.00
John Mosca	89.1	11.1375	\$1,900	\$23,700.60
<b>Legal Fees After August 31, 2016</b>				<b>\$67,832.80</b>
<b>Disbursements</b>				<b>\$3,045.66</b>
<b>TOTAL PACA AWARD</b>				<b>\$88,554.86</b>