



ORDER NUMBER
F-24-22

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

and

Creative Energy Mount Pleasant Limited Partnership
Application for Rates for the Mount Pleasant District Cooling System
Participant Assistance/Cost Award Application

BEFORE:

A. K. Fung, KC, Panel Chair
E. B. Lockhart, Commissioner
T. A. Loski, Commissioner

on October 5, 2022

ORDER

WHEREAS:

- A. On February 1, 2021, Creative Energy Mount Pleasant Limited Partnership (CEMP) filed an application with the British Columbia Utilities Commission (BCUC) pursuant to sections 58 to 60 and 90 of the *Utilities Commission Act* (UCA) and section 15 of the *Administrative Tribunals Act* for approval on an interim and refundable basis of rates for a three year period, effective February 1, 2021 to December 31, 2023 for its provision of cooling service to the Main Alley Development, amongst other things (Application);
- B. By Orders G-352-21, G-76-22 and G-131-22 the BCUC established the regulatory timetable to review the Application, which included, among other things, notice of Application, dates for intervenor registration, BCUC and intervenor information requests (IR) No. 1 and 2, CEMP's responses to IRs and written final and reply arguments;
- C. As part of a status update filed on March 1, 2022, CEMP revised its approvals sought requesting, among other things, permanent approval of the rate structure for a proposed fixed levelized capacity charge and variable charge;
- D. The Commercial Energy Consumers Association of British Columbia (the CEC) participated as the sole intervenor in the proceeding;
- E. By Order G-242-22 and the accompanying reasons for decision dated August 22, 2022, the BCUC approved, among other things, a fixed levelized capacity charge and a variable charge for the provision of cooling service to the Main Alley Development, on a permanent basis, effective February 1, 2021;
- F. On July 21, 2022, the CEC filed a revised Participant Assistance/Cost Award (PACA) application with the BCUC seeking \$29,635.46 with respect to its participation in the proceeding;

- G. By email dated September 13, 2022, CEMP stated it does not intend to provide any comments on the CEC's PACA application; and
- H. The BCUC has reviewed the CEC's PACA application in accordance with the criteria and rates set out in the PACA Guidelines, attached to Commission Order G-97-17, and determines that a cost award in the amount stipulated below should be approved.

NOW THEREFORE pursuant to section 118(1) of the *Utilities Commission Act*, the BCUC orders as follows:

1. For the reasons outlined in Appendix A to this order, funding is awarded to the CEC in the listed amount below for its participation in the proceeding:

Participant	Award
The CEC	\$22,593.90

2. CEMP is directed to reimburse the CEC for the awarded amount in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 5th day of October 2022.

BY ORDER

Original signed by:

A. K. Fung, KC
Commissioner

Attachment

Creative Energy Mount Pleasant Limited Partnership
Application for Rates for the Mount Pleasant District Cooling System
Participant Assistance/Cost Award Application

REASONS FOR DECISION

1.0 Background

On February 1, 2021, Creative Energy Mount Pleasant Limited Partnership (CEMP) applied to the British Columbia Utilities Commission (BCUC) for approval on an interim and refundable basis of rates for a three year period, effective February 1, 2021 to December 31, 2023 for its provision of cooling service to the Main Alley Development (Mount Pleasant District Cooling System [DCS]), amongst other things (Application). By orders of the BCUC¹, the regulatory process for review of the Application established a written public hearing process which comprised two rounds of BCUC and intervener information requests, as well as written final and reply arguments. As part of a status update filed on March 1, 2022, CEMP revised its approvals sought requesting, among other things, permanent approval of the rate structure for a proposed fixed levelized capacity charge and variable charge.²

By Order G-242-22 dated August 22, 2022 with the decision issued concurrently, the BCUC approved, among other things, the fixed levelized capacity charge and variable charge for the provision of cooling service to the Main Alley Development, on a permanent basis, effective February 1, 2021.

The Commercial Energy Consumers Association of British Columbia (the CEC) participated as the sole intervener in the proceeding.

2.0 Legislative Framework

Section 118(1) of the *Utilities Commission Act* (UCA) 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.”

The PACA Guidelines as set out in Appendix A attached to BCUC Order G-97-17 dated June 15, 2017, stipulate the eligibility requirements and criteria used in assessing cost awards, including the process for applying for a cost award, eligible costs and rates.

Section 3.1 of the PACA Guidelines outlines the considerations to determine participant eligibility for a cost award. If the participant is eligible for a cost award, the Panel then considers the following in determining the amount of a participant’s cost award in accordance with section 4.3 of the PACA Guidelines:

- (a) Has the participant contributed to a better understanding by the BCUC of the issues in the proceeding?
- (b) To what degree will the participant be affected by the outcome of the proceeding?
- (c) Are the costs incurred by the participant fair and reasonable?
- (d) Has the participant joined with other groups with similar interests to reduce costs?
- (e) Has the participant made reasonable efforts to avoid conduct that would unnecessarily lengthen the duration of the proceeding, such as ensuring participation was not unduly repetitive?
- (f) The funding day calculation for funding in accordance with sections 4.1 and 4.2, if one is provided.
- (g) Any other matters which the BCUC determines appropriate in the circumstances.

¹ Orders G-352-21, G-76-22 and G-131-22.

² Exhibit B-9, p. 2.

3.0 PACA Application

On July 21, 2022, the CEC filed a revised Participant Assistance/Cost Award (PACA) application with the BCUC seeking \$29,635.46 with respect to its participation in the proceeding. In accordance with Section 14.2 of the PACA Guidelines, Creative Energy was afforded the opportunity to comment on the CEC's PACA application and stated that it did not intend to comment.³

4.0 BCUC Determination

The Panel, in its review of the CEC's PACA application, is guided by the PACA Guidelines. The Panel is satisfied that the CEC meets the eligibility criteria outlined in the BCUC's PACA Guidelines for a cost award in this proceeding. The Panel notes that the CEC actively participated in the proceeding and accepts that the number of funding days claimed for legal counsel are reasonable. However, with respect to consulting services, the Panel finds that the funding days applied for exceed its expectation for this proceeding.

The Panel notes that by Order G-222-21, the BCUC approved a levelized rate structure that consisted of a fixed levelized capacity charge and variable charge for a heating thermal energy system (TES) and a DCS at the Vancouver House Development (Vancouver House proceeding), which is identical to the rate structure proposed by CEMP and approved by Order G-242-22. By Order F-27-21, the BCUC awarded funding of \$19,121.94 to the CEC for the Vancouver House proceeding which included 5.75 funding days for consulting services as compared to 12.625 funding days for consulting services claimed by the CEC in this proceeding.

The Panel acknowledges that unlike the Vancouver House proceeding, the CEC is the sole intervener in this proceeding and therefore was unable to join with other groups with similar interest to reduce costs. However, the Panel recognizes that the same consultants that participated in the Vancouver House proceeding also participated in this proceeding and it is the Panel's expectation that the consultants would have been familiar with the rate structure proposed by CEMP for the Mount Pleasant DCS. Additionally, the Panel notes that the Vancouver House proceeding included review of two energy systems and had a much larger evidentiary record than this proceeding which included review of only one energy system, the Mount Pleasant DCS.

With consideration to the volume of material and complexity of the issues related to this proceeding relative to the Vancouver House proceeding, the Panel finds that a maximum of nine funding dates for consulting services to be fair and reasonable for the amount of regulatory effort necessary for the CEC to fully participate in the proceeding. **Therefore, the Panel awards participant costs of \$22,593.90, inclusive of applicable taxes, to the CEC.** The award is calculated as follows:

	Daily Rate	Days	GST	PST	Total
Consulting Services	\$1,850	9.00	\$832.50	\$0.00	\$17,482.50
Legal Counsel	\$2,800	0.875	122.50	171.50	\$2,744.00
Legal Counsel	\$1,900	1.1125	105.69	147.96	\$2,367.40
Total Award					\$22,593.90

³ Creative Energy email to the BCUC Commission Secretary, dated Tuesday, September 13, 2022.